

The Progressiveness of Quranic Interpretation in the Fatwa of Muhammadiyah
on Female Circumcision

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Abstract

The Indonesian Muslim community has been accustomed to requesting and carrying out religious Fatwa related to *ibadah* (worship) or *mu'āmalah* (worldly dealings) in religious organizations that gave rise to various Fatwas, such as Muhammadiyah, Nahdlatul Ulama (NU), and the Indonesian Ulama Council (MUI). This paper focuses on female circumcision, by comparing how the same Quranic verses and *Hadīth* can have various interpretations and Fatwas. Although the source of producing the Fatwa is the same (al-Qur'an and *Hadīth*), the Fatwa that emerges from three Islamic organization are completely different. Qualitative research methods include interviews and literature review, with Fatwas from religious organizations and interviews being the primary sources. This research concludes that Fatwa Muhammadiyah is considered to be the most progressive and has a strong perspective on gender equality and justice by prohibiting female circumcision. On the other hand, the Fatwa from NU and MUI supports and allow female circumcision, even though it has negative impacts on women and baby girls, including the death of baby girls.

Keywords:

Fatwa, Muhammadiyah, female circumcision

Abstrak

Masyarakat Muslim Indonesia terbiasa meminta dan menjalankan Fatwa keagamaan terkait ibadah atau muamalah kepada organisasi-organisasi keagamaan yang biasa mengeluarkan Fatwa. Misalnya Muhammadiyah, Nahdlatul Ulama (NU), dan Majelis Ulama Indonesia (MUI). Tulisan ini fokus membahas sunat perempuan dengan cara membandingkan bagaimana ayat-ayat al-Qur'an dan *Hadīth* yang sama, digunakan untuk merumuskan Fatwa oleh tiga organisasi keagamaan tersebut. Sekalipun sumber Fatwa sama (al-Qur'an dan *Hadīth*), tetapi menghasilkan Fatwa yang berbeda. Melalui metode penelitian kualitatif, wawancara mendalam dan studi pustaka, dengan sumber utama adalah Fatwa atau putusan organisasi keagamaan dan wawancara dengan ulama. Hasil utama dari riset ini Fatwa Muhammadiyah dipandang paling progresif dan memiliki perspektif kesetaraan dan keadilan gender yang kuat dengan melarang sunat perempuan. Sedangkan Fatwa dari NU dan MUI dapat dimaknai mendukung, mengizinkan sunat perempuan meskipun berdampak negatif pada perempuan, termasuk kematian pada bayi perempuan.

Keywords:

Fatwa, Muhammadiyah, sunat perempuan

Introduction

The phenomenon of female circumcision, also known as Female Genital Mutilation/Cutting/Circumcision (FGM/C)¹ is still being implemented by the Indonesian society in several areas, especially in Madura-East Java,² Yogyakarta,³ Banten and Lampung,⁴ Baddui Village in South Sulawesi,⁵ Banjar City in South Kalimantan,⁶ Situbondo District,⁷ Demak,⁸ and Lampasi Ligo Nagari, West Sumatra.⁹ Such practice is influenced by cultural and religious perspectives within and outside of Indonesia.¹⁰

Female circumcision is related to reproductive health and sexuality¹¹ with the most common problems of female circumcision being a decrease or loss of sexual desire,¹² a difficulty in achieving orgasm, pain during sexual intercourse,¹³ and can even lead to the deaths of female infants.¹⁴ Female circumcision brings out various interpretations and Fatwas (the application of *sharī'ah* or *fiqh* to Muslims' everyday life today)¹⁵ on the same al-Qur'an verses and *Hadīth*.¹⁶ However, Fatwas of the three organizations, namely Muhammadiyah, Nahdlatul Ulama (NU), and the Indonesian Ulama Council (MUI) can be different, even though they refer to the same verses and hadiths. For those reasons, I write this research.

According to Jasser Auda, *maqāsid sharī'ah* (the purposes of universal Islamic law) had to analyze the humanity crisis and renew its methodology in order to fit the conditions in the contemporary.¹⁷ That is

¹ Nahia Toubia did not separate the meaning of female circumcision or female genital mutilation. Nahia Toubia, "Female Circumcision/Female Genital Mutilation", *African Journal of Reproductive Health/La Revue Africaine de la Santé Reproductive*, Vol.2, No.2 (October 1998): 6.

² Rachmah Ida, *Sunat, Belunggu Adat Perempuan Madura*, Yogyakarta: PSKK UGM, 2004, 3-10.

³ Sumarni, et.al, *Sunat Perempuan di Bawah Bayang-bayang Tradisi*, Yogyakarta: PSKK UGM, 2005, 41-54.

⁴ Ristiani Musyarofah, et.al, *Khitan Perempuan antara Tradisi dan Ajaran Agama*, Yogyakarta: PSKK UGM, 2003, 25-47.

⁵ Islamiyatur Rokhmah, et.al, "Sunat Perempuan dalam Perspektif Budaya, Agama dan Kesehatan (Studi Kasus di Masyarakat Desa Baddui Kecamatan Galesong Kabupaten Takalar Sulawesi Selatan)", *Jurnal Kebidanan dan Keperawatan*, Vol.11, No.2 (Desember 2015): 103-111.

⁶ Tutung Nurdiana, "Sunat Perempuan Pada Masyarakat Banjar di Kota Banjarmasin", *Jurnal Komunitas*, Vol.2, No.2 (2010): 116-124.

⁷ Putri Septyaning Rahayu Ariesta, *Praktik Sunat Anak Perempuan*, Thesis Magister Sociology at Faculty of Social and Politic Science, Airlangga University, 2018: 45.

⁸ Jauharotul Farida, et.al, "Sunat Pada Anak Perempuan (Khifadz) dan Perlindungan Anak Perempuan Di Indonesia: Studi Kasus di Kabupaten Demak", *Jurnal SAWWA*, Vol.12, No.3 (Oktober 2017): 371.

⁹ Salma, "Tradisi Sunat Perempuan di Lampasi Ligo Nagari", *Jurnal al-Manahij*, Vol.X, No.1 (2016): 155-167.

¹⁰ Jurnalis Udin, et.al, *Female Circumcision: A Social, Cultural, Health and Religious Perspectives*, Jakarta: Yarsi University Press, 2009, 5.

¹¹ Adrina, et.al., *Hak-hak Reproduksi Perempuan yang Terpasung*, Jakarta: Pustaka Sinar Harapan, 1998, 2-3.

¹² Yulianti Muthmainnah, "Lagi, Soal Khitan Perempuan", *Al-Arham Rahima*, Edisi 48B (2012): 2.

¹³ Manal Ibrahim HanafiMahmoud, "Effect of female genital mutilation on female sexual function, Alexandria, Egypt", *Alexandria Journal of Medicine*, Vol.52 (March 2016): 55-59. In <https://www.sciencedirect.com/science/article/pii/S2090506815000238>, accessed 30 January 2022.

¹⁴ A baby girl died because of female circumcision in Rangkasbitung, Banten province. See Komnas Perempuan, *Persimpangan antara Tradisi dan Modernitas, Hasil Kajian Kualitatif Pemotongan, Pelukaan, Genitalia Perempuan (P2GP) di 10 Provinsi 17 Kabupaten/Kota*, Jakarta: Komnas Perempuan, 2018, 56-57, and 177-178. In https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf_file/2019/Hasil%20Kajian%20Kualitatif%20Pemotongan-Pelukaan%20Genitalia%20Perempuan%20di%2010%20Provinsi-%2017%20Kabupaten-Kota.pdf, accessed 02 January 2019. See Kizito Makoye, *Baby Girl Dies in Tanzania After FGM by Great-Grandmother*, Reuters, 1 February 2017 in <https://www.reuters.com/article/us-tanzania-fgm-idUSKBN15F2DB> accessed 29 January 2022. Also see The Guardians. *10 Years Old Girl Bleeds to Death after Female Circumcision in Somalia*. 2019. In <https://www.theguardian.com/global-development/2018/jul/20/10-year-old-girl-death-fgm-female-genital-mutilation-somalia> accessed 29 January 2022.

¹⁵ Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law*, London: The International Institute of Islamic Thought, 2007, xxiii.

¹⁶ M. Alfatih Suryadilaga, "Khitan Perempuan dalam Perspektif Hadist", in Mochamad Sodik (ed). *Telaah Ulang Wacana Seksualitas*. Yogyakarta: PSW IAIN Sunan Kalijaga-Depag-McGill-IISEP-CIDA, 2004: 8-13.

¹⁷ Jasser Auda, *Maqasid...*, 1-25.

why I argue that the *maqāṣid sharī'ah* should include women's perspectives: First, by interpreting *hifẓ ad-dīn* as the right to the freedom of religion; that is, women should be given agency to actualize their own way of being religious, which includes expressing their own identity during worship and in their daily life by wearing *mukena* (praying gown), hijab, or *selendang* (shawl). Second, *hifẓ an-nafs* or to keep the life, which includes the right to be healthy and free from diseases that can threaten the life of women. Third, *hifẓ al-'aql* or to keep the reason, as women has rights to think, express their political choice, and express their thoughts. Four, *hifẓ an-nasl* or to keep the generation, which includes the rights to express their sexuality in the healthy manner and to have reproductive health rights, including the rights to descent. And the last, *hifẓ al-māl* or to keep their ownership of property, which means women should have rights to obtain property or work for the purpose of having a sustainable life.

Sulistiyowati Irianto said that the gendered perspective of the law that aims to address women contains three elements. First, to examine whether the law had failed to consider women's experience, disadvantaged women, and whether the law has double standards for women. Second, to apply critical methodologies when implementing the law. Third, to use women's cases as a tool of analysis, in order to see the power dynamic between men and women.¹⁸ According to Auda and Irianto, *maqāṣid sharī'ah* and law that contains women's perspectives will be used to analyze the issue of female circumcision.

In this research, I employ Johanna Pink's typology of Qur'an¹⁹ as my theoretical lens. Pink suggests the need for a typology of Qur'an to analyses the verses in the al-Qur'an. It should be noted that the same verses of the Qur'an can be interpreted differently by scholars because each interpretation are determined by several variables such as the purpose of interpretation, the attitude or background of the underlying ulama, and the area where the commentator lives. The typology of Qur'an is divided into three sections. First, the interpretation of polyvalence; which involves collecting and accepting various opinions of previous classical ulemas. Second, the interpretation is practical, easy to understand, and rejects any interpretations that are considered wrong. Third, the type of interpretation is relative or refracts meaning, as the goal is that the interpretation is accepted by all groups in different situations of religious practice.

This paper focuses on female circumcision by comparing how the same Quranic verses and *Ḥadīth* can have various interpretations and Fatwas. Although the al-Qur'an and *Ḥadīth* use the same source in producing the Fatwa, the Fatwa that emerges from three Islamic organizations are completely different. For this research I used qualitative research, particularly a descriptive method, using interviews and analyzing research documents. The data gathered by interviewing the ulama at the workshop I attended, as well as Fatwa from Muhammadiyah, NU, and MUI will be used as a primary data; while secondary data are obtained from books, journals, and news that had been verified, which will be analyzed to find conclusions. This study is important because common people do not realize that Islam has many perspectives related to female circumcision.

The Issues of Female Circumcision in Indonesia

The government of Indonesia has been receiving comments and recommendations to eliminate the practices of female circumcision, which lies between tradition and religious paradigm that still have gender biases. Such recommendations can be seen in the following reports by the CEDAW Committee Year 2007, UN's Special Rapporteur Juan E. Mendez in the Year 2011,²⁰ the recommendation of the Universal

¹⁸ Sulistiyowati Irianto, "Kawin Kontrak dalam Perspektif Pluralisme Hukum dan Perempuan", *Jurnal Srintil Desantara: Ketika Aurat dikuasai Surat*, Vol.4 (2003): 6-15. Also see Sulistiyowati Irianto, *Perempuan dan Hukum yang Berperspektif Kesenjangan dan Keadilan*, Jakarta: Yayasan Obor Indonesia, 2006, 4.

¹⁹ Johanna Pink, "Tradition, Authority and Innovation in Contemporary Sunni tafsir: Toward a Typology of Qur'an Commentaries from the Arab World, Indonesia and Turkey", *Journal of Qur'anic Studies*, Edinburg University Press, SOAS, (2010): 60-63. In https://www.jstor.org/stable/25831165?read-now=1&refreqid=excelsior%3Aef1dbb69c13ca5adaa5c64ec8229abdd&seq=1#page_scan_tab_contents Accessed 29 January 2022.

²⁰ A statement made by Juan E. Mendez, a special rapporteur on the torture and other cruel, inhuman, and degrading treatments of women, including that of female genital mutilation: progress-realities-challenges. The side event is sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women- Geneva, 1 June 2011.

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Periodic Review in 2017, and SDGs Goal 5 on the harmful traditional practices on women's body. However, despite these recommendations, female circumcision is still often practiced by some people in several areas.

The efforts to eliminate female circumcision practices had initiated many regulations. Below is a flow chart containing national policies regarding female circumcision that had been issued by the state.

2006, 2008	20 10	2014	26 Feb 2014	2018
Circulation Letter Number: HK 00.07.1.3.1047 on the Prohibition of the Medicalization of Female Circumcision by the Ministry of Health Affairs on 20 April 2006. This policy was challenged by MUI, by issuing the decision of the Fatwa Year 9A Year	Regulation of the Ministry of Health Affairs Number 1636 Year 2010 This policy allows the practices of female circum	The Regulation of Ministry of Health Affairs Number 6 Year 2014 on the Withdrawal of the Regulation of Ministry of Health Affairs Regulation Year 1636 And article 2 mandates the <i>Majelis Pertimbangan Kesehatan Syara'</i>	The Health and Syara' Consideration Assembly of the Ministry of Health Affairs that was formed by and should be responsible to the Ministry of Health issue	The Ministry of Women's Empowerment and Child Protection Republic of Indonesia published guidelines for the advocacy and dissemination regarding the prevention of female circumcision for religious leaders. This book

2008 on the Prohibition of Prohibiting Female Circumcision, Fatwa of MUI, on 7 May 2008. Note: The Fatwa of MUI denounces the decision of the Indonesian government for banning female circumcision, because they see such a practice as backwards.	cision to take place, and notes that in order to keep the process hygienic, female circumcision should be done by medical health workers. However,	(The Health and Syara' Consideration Assembly) to issue guidance regarding the implementation of female circumcision that ensures the safety and health of circumcised women and avoids female genital mutilation (FGM) practices.	the Letter Number 05/MP/KS/I/2014 on the Socialization of the Guidance of Female Circumcision that was addressed to the Ministry of Health, 26 February 2014.	encourages religious leaders to stop female circumcision, and mentions Fatwas on female circumcision from Muhammadiyah, NU, and MUI without making any comparisons.²¹
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²¹ [Agustina Erni, et.al.](#), *Panduan Advokasi dan Sosialisasi Pencegahan Sunat Perempuan bagi Tokoh Agama*, Jakarta: KPP-PA, 2018, 5.

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Table 1: national decision

Muhammadiyah and the Process of Issuing Fatwa

This part consists of a brief description of Muhammadiyah's profile and how the founding of Majelis Tarjih dan *Tajdid* (MTT) or Tarjih and *Tajdid* Council of Muhammadiyah help implement its mechanism in forming Tarjih products (the Fatwa products), which is considered progressive. Muhammadiyah defines itself as an Islamic movement, *al-Amr bil ma'rūf wa an-nahy 'an al-munkar* and *tajdid* organization, based on the Qur'an and *Ḥadīth* rooted in Islam²² which has become the largest modern Muslim organization²³ that was founded by KH. Ahmad Dahlan on 18 November 1912. Although calls to return back to the teaching of the Qur'an and al-Sunnah were advised,²⁴ there has not been much polemics to the political issues, and much of the focus is directed towards implementing its organizational activity through building modern schools, hospitals, *pesantren*, orphanages, microeconomics, and others which provide social services for citizen.

KH. Mas Mansyur, one of the leaders of Muhammadiyah built a committee called Tarjih and *Tajdid* Council in 1927 in Pekalongan, to deploy the Fatwas and ensures the laws on specific issues. Tarjih and *Tajdid* Council uses the *tarjih* method to analyze two competing hadiths and choose the hadith that is closest to the teachings of the Quran.

The main motivation for the founding of this Tarjih and *Tajdid* Council is because Muhammadiyah found that society have various perspectives in implementing a law of *fiqh* (Islamic jurisprudence) to the same issue. This situation creates restlessness among society, especially on the value of character building of its members. Therefore, it becomes necessary to create an institution that was able to consider various Islamic school of thoughts and find solutions for issues that had not been committed by the previous ulama, and by putting forth values that protects individual rights.

In its development, and in addition to sourcing from the Qur'an and the Sunnah, the Tarjih and *Tajdid*

²² Article 4 verse (1) of Muhammadiyah's Basic Constitution of Association. Anggaran Dasar Muhammadiyah, in <https://muhammadiyah.or.id/anggaran-dasar/>, accessed 16 August 2019.

²³ Ahmad Najib Burhani. Muhammadiyah in Oxford Islamic Studies Online, Oxford Islamic Studies Online, in <http://www.oxfordislamicstudies.com/article/opr/t343/e0296>, accessed 23 August 2019.

²⁴ As-Sunnah is an act that is done by the Prophet Muhammad saw. The three As-Sunnah includes: *sunnah qauliyah*, a discourse or *Hadith*, which is written by the Prophet, *sunnah taqrīriyaha*, the Prophet's silence which marks an avowal of one's actions, and *sunnah fi'liyah*, are physical acts performed by the Prophet.

Council also adopted the development of Islamic law.²⁵ According to Syamsul Anwar, the spirit of *tarjih* also accommodates the perspectives of religious understanding that is not affiliated to a certain school of thought (*mazhab*), and considers the *tajdid* (innovation) insight, tolerance insight, openness insight, and accepted progressive ideas in society.²⁶ Therefore, Muhammadiyah does not do the *taqlid* (imitation) to rigidly follow one of the prominent *mazhab* (school of thoughts) in Islam, but echos the *ijtihad* (strong efforts), in order to interpret and understand the Qur'an and the Sunnah directly. In understanding the Sunnah, Muhammadiyah only considers as-Sunnah ash-*Ṣaḥīḥ* (the correct and authorized Sunnah). The *dha'if* (weak) Hadith or as-Sunnah—meaning the weak words of Prophet Muhammad SAW—cannot be used as legal reference, although in worship that is considered as virtue.

The Tarjih method uses *ijtihad bay'ani*, *ijtihad qiyāsi*, and *ijtihad istiṣlāḥi*. First, *ijtihad bay'ani* is a kind of *ijtihad* (religious effort) that relates to linguistic. Here, a verse can be interpreted as *majāz* (connotation), *mushtarak* (ambiguities), the general verses (*Ām*) or *mubayyan*, that is specifically applied and explains the *khāṣ* or *mubayyin* (the specific things), the *qaṭ'i* (definitive) and *ẓanni* (speculative) verses, and the verse that shows the order (including *wājib*, *sunnah*, *makrūh*, *mubāḥ*, *harām*), including other issues that had been mentioned in the Qur'an. Second, *ijtihad qiyāsi*, or often known as *ta'lili* (causation) is a kind of *ijtihad* or an effort that is implemented to find the law as a solution to a problem that had not been mentioned in the *nash* (Quranic texts) directly. So, it becomes necessary to utilize 'illat (legal reason, causes) as its foundation. The way to find 'illat is to use the *qiyas* (parable) method and *istiḥsān* (juristic preference) to change the law itself, in order to substitute the old 'illat with the new 'illat. Third, *ijtihad istiṣlāḥi* (to deem proper) is a kind of *ijtihad* that is used to identify the problem that had not been mentioned in the *nas* (Quranic texts).²⁷

In addition to the method above, the Tarjih and *Tajdid* Council also used a women's rights perspective. The ulama of Muhammadiyah—who have a strong women's rights perspective in addition to the 'Aisyiyah leaders—always struggle for women and children's needs in the *fiqh* discourse and gave significant contributions in the Tarjih product that are women and children friendly.²⁸

The Fatwa had been produced by Tarjih and *Tajdid* Council; among them are the Decision of Majelis Tarjih, Fatwa of Majelis Tarjih, and Tarjih Discourses. The difference among the three products is that if the decision of Majelis Tarjih had passed the *tanfīz* process (validity statement of the decision), which involves the agreement and consent from all councils in 34 provinces, it can be organizationally legalized by the Muhammadiyah Central Leadership. The Fatwa of Majelis Tarjih is a legal Islamic jurisprudence product, and are presented as answers to the questions raised by the members of Muhammadiyah as well as people in general. The answers are usually discussed every Friday, then uploaded on the website of Tarjih and *Tajdid* Council and published in Suara Muhammadiyah Magazine or printed in the book *The Fatwa of Tarjih and Questions and Answers of Religious Issues*.²⁹ Since the Tarjih Discourse derives from the individual perspective or opinion of the member of the Tarjih and *Tajdid* Council, this opinion cannot be used as legal institutional reference, but it can be applied as religious knowledge.

NU and MUI, the Process of Issuing Fatwa

While home to the biggest Muslim population in the world, Indonesia is not a country that implements

²⁵ Contained in Article 4 paragraph (1) Chapter II number (1) in the Decision of Tarjih in Jakarta in 2000, that Muhammadiyah is an Islamic movement, da'wah amar ma'ruf nahi munkar and tajdid, sourced from the Qur'an and as-Sunnah al-Maqbulah.

²⁶ Syamsul Anwar, 'Manhaj Tarjih Muhammadiyah', Yogyakarta: Panitia Musyawarah Nasional Tarjih XXX, 1439 H/2018 M. Syamsul Anwar is the Head of Tarjih and Tajdid Council of Muhammadiyah.

²⁷ Chapter IV and Chapter V, Manhaj of Islamic Thought, Munas Tarjih XXV Decision on Manhaj Tarjih and the Development of Islamic Thought in 2000, 11 and 16-23.

²⁸ Some Tarjih products include Adabul Mar'ah fi Islam (1970), Keluarga Sakinah (2015) and the implementation of a happy family that consists of monogamy, no domestic violence, and equal relation between a husband and wife. See Yulianti Muthmainnah. "Aisyiyah dan Ijtihad Berkemajuan untuk Hak-Hak Perempuan", *Jurnal Maarif*, Vol.14, No.2 (2019): 114-134.

²⁹ Tarjih Council and Tajdid Muhammadiyah, Fatwa-fatwa Tarjih, Religious Book of Questions and Answers Volume 2, Cet-8. Yogyakarta: Suara Muhammadiyah. 2004, 48-49.

its laws based on the *Sharī'ah* or Islamic Law, but the national law. Here, Fatwas from the Islamic mass organization as well as the opinion of religious leaders, including the Tarjih and *Tajdid* Council of Muhammadiyah, Bahtsul Masail (Problem Discussion Forum) of NU, and MUI are almost often used as religious reference for the Indonesian Muslim society.

In issuing the Fatwa, Muhammadiyah and MUI consistently refer to the Quranic verses and hadith that supported the verse as highest Islamic law, even though the *fiqh* principle and the opinions of the ulama are not always referred by both organizations.

This is contrary to the NU, which implements opposite things. According to KH Sahal Mahfudh, in the beginning, Bahtsul Masail NU referred to the opinions of the ulamas and considered *fiqh* principles, even though the Quranic verses are rarely referred directly by the NU. There are three methods of concluding the Fatwa of NU. First, the *qauliy* method, which explores the laws based on the opinion of the *fiqh* ulama that had been written in the prominent (*mu'tabar*) books. Second, the *ilhāqiy* method, which assimilates the law on problems that had not been mentioned in the text (the Holy Quran and Hadith) with problems that had been explained in the texts and the law that refers to what had been mentioned in the prominent (*mu'tabar*) books. Third, the *manhajiy* method, which solves religious problems that had been elaborated through *bahtsul-masail* by following the thoughts and principles of the law-making conclusion that had been arranged by the Imam of *madzhab* or Islamic school of thoughts.³⁰

The process of issuing the Fatwa in NU is done by conducting the *Musyawarah Nasional (Munas) Alim Ulama* or National Assembly of the Ulamas, which consists of ulama, kyai, and leaders and non-leaders of NU, to discuss religious problems that are related to the life of *ummah* (people) and nation. NU was divided into three commission, namely *wāqī'iyah* (the discussion of the actual religious problems), *maudū'iyah*, (the discussion of thematical religious problems), and *qānūniyyah* (the discussion of religious problems related to the national laws and policies). Given that the *fiqh* that was formulated hundreds of years ago, it is no longer sufficient to answer the social problems in the contemporary. The ulama of NU also use the *istinbath* (recognize and explore legal sources for law making conclusion) method in their decision making, in addition to the *ijtihād* method, namely *ijtihād jama'i* (collective efforts), which explores the foundation of the texts or *ijtihād ilhāqiy* or *qiyāsī*.³¹ By referring to previous ulama in discussing the law, the ulama of NU tries to preserve past traditions. According to Marzuki Wahid, the consideration of the ulama of NU does not refer to the Quranic verses' interpretation of a verse, so that a *mujtahid* or *mufassir*—the person who interpret the Quranic texts—should understand the Qur'an and its knowledge perfectly (the knowledge of *naḥwu*, *ṣarf*, *manṭiq*, *tafsīr*, *uṣūl al-ḥadīth*, *qawā'id*, *maqāsid sharī'ah*, *balāghah*, and related knowledge). As Imam Ghazali requires, several knowledges must be managed to interpret the verses. Considering this, the ulama of NU perceived that the previous ulama had been qualified on their knowledge, and referred to the Quran to conclude the law, so that the ulama of NU felt more safe and comfortable if the interpretation of the verses of the Koran is done by reading the results of the *ijtihād* of previous scholars—the priests of the school of thought—which has become a source of law. The Fatwa of NU is divided into *wāqī'iyah*, *maudū'iyah*, *qānūniyyah*. Here, the issue of female circumcision is part of *masail ad-Diniyyah al-Maudhu'iyah* or the discourse on the thematical religious issues, and its foundation of law directly refers to the opinions of ulama and does not refer to the Qur'an.³²

The MUI utilizes three approaches in issuing the Fatwa, namely the *nash qath'iy*, the *qauliy*, and *manhajiy*. The Fatwa of MUI are based on the Quran and Hadith; if an answer that one is seeking cannot be found in the Quran, such an answer can be found in the opinions of ulemas.

Women's body in the contestation of Fatwa

Muhammadiyah has several narrations related to female circumcision. First, the Fatwa of female circumcision is present in the Fatwas of Tarjih, and the book, *Questions and Answer on the Religious Issues*

³⁰ KH. MA. Sahal Mahfudh, *Nuansa Fikih Sosial*, Yogyakarta: LKiS, 2004, xxiii-li.

³¹ Sahal Mahfudh, *Nuansa...*

³² Marzuki Wahid, interview, 4 March 2019. He was a Chairperson of Pesantren or Ma'had Aly Kebun Jambu, Cirebon and lecturer of IAIN Sheikh Nurjati Cirebon. Now, in 2022, he is a rector of ISIF Cirebon.

Number 1 Year 1991. The Fatwa starts with the definition of female circumcision in accordance with the World Health Organization (WHO), which states that the practice had been done by people in Africa, and mentions the long and short impacts of circumcised women. The Quranic verse that is often used, which is the QS an-Nisa'[4]:125, talks about following the teachings of Prophet Ibrahim and hadith that are usually used as reference to the law. The hadith, narrated by Ibnu Majah from Aisyah and Ibnu Amr states that if two of the circumcised genital organs meet, they must take a shower. However, this hadith is not rendered a form of legal determination. Additionally, The Quran of surah an-Nisa'[4]:125 is compared to the hadith whereby Prophet Ibrahim a.s. does the circumcision when someone decides to convert to Islam, and states that circumcision is a *makrūmah* (glory) for woman and an obligation for man. However, the hadith was considered to be unclear, as it states that circumcision is not an obligation or an indicator to determine whether one is a Muslim or non-Muslim; and given the negative impact of female circumcision on women, the Fatwa decided that a woman does not need to be circumcised.

Second, an analysis that was derived by the 'Fiqh on Women' during the National Assembly of Tarjih 27th year 2010 in Malang, East Java discussed the Fatwa in the year 1991, and mentions verses QS. an-Nisa'[4]:125, QS. an-Nahl[1]:123 and QS. an-Nisa'[4]:125. The hadith that was referred was the hadith narrated by Bukhari-Muslim, which states that Prophet Ibrahim was circumcised when he was 80 years old by the ax, as Islam is a religion that follows the teachings of Prophet Ibrahim that affirms circumcision. Prophet Muhammad was circumcised when he was six days old [Ibnu Qayyim Al-Jauziyyah]. The narration of Abu Hurairah mentioned that a person is ordered to be circumcised if he is converting to Islam. From Abu Hurairah ra., Prophet Muhammad said, that there are five natures for Muslim-Muslimah: circumcision, cutting the public hair, cutting the moustache, cutting the nails, and pulling out the armpit hair" (HR Bukhari and Muslim); "If two circumcised genital organs meet each other, so they must take a shower" (Ibnu Muslim); Hadith Abu Dawud from Ummu Athiyah states that a woman will be circumcised in Madinah. Then Prophet Muhammad said, "Do not overcut, because it is more pleasurable (when having sexual intercourse) and loved by the husband" (HR Abu Dawud and Baihaqi).

يا أم عطية: أَشْبِمِي وَلَا تَنْهَكِي، فَإِنَّهُ أَسْرَى لِلْوَجْهِ وَأَحْظَى عِنْدَ الزَّوْجِ" أَخْرَجَهُ أَبُو دَاوُدَ

("O Umm 'Attiyah, when you do circumcise, restrict yourself to cut a minute part and do not excise. That will be far more pleasant for the wife and satisfying for the husband"). It is one Hadith that is often quoted, known as Umm Attiyah.

In another narration Prophet Muhammad said, "Just cut the top of it and do not overcut, because that part makes the face more glowing and part of the pleasure (of the husband)". However, Abu Dawud who narrated this hadith said that this hadith is weak because one of the narrators has an unknown origin (*majhul*). Likewise, Ibnu Munzhir, who is quoted by Ibn Hajar al-Asqalani, states the "none of [the] hadith can be used as the law for the issues of female circumcision, and none of the sanad (linkage) can be followed". Moreover, the ulama have different opinions on the uncertainty of the order of female circumcision, including the followers of Syafii school, which argued that female circumcision is not obligatory, as it disadvantages women.

Third, Muhamad Rofiq Muzakkir, a secretary of Muhammadiyah, considers the very brief history, definition, and classification of female circumcision or FGM/C according to the WHO, as well as the opinions of ulama (Islamic scholars), arguments, and analysis of the prohibition before taking the conclusion on the law regarding female circumcision. The opinion of ulama that was undertaken consists of opinions from the four Imams of Mazhab (leader of Islamic school of thoughts): Imam Nawawi, Syeikh bin Baz a mufti from the United Kingdom of Saudi Arabia who said that this is a *sunna*, Syeikh Jadual Haq the leader of a Fatwa institution in Egypt which also said that this is *sunna*, Yusuf Al-Qaradhawi who said that this is *mubah* (allowed), Salim al-Awwa, a scholar from al-Azhar University who said that female circumcision is an action that contained *mudharat* (danger), and Syeikh Mahmoud Syalthout as an Al-Azhar Syeikh who said that there is no connection between Islam, morality, and women's health, even though the discussion on the verse and hadith are same with the verse and hadith as referred by Muhammadiyah as mentioned above. Finally, Muzakkir concludes that the concept of ushul al-fiqh on

shaddu al-dzari'ah (to close the door of possibility that can cause the prohibited action) can be used as reference to prohibit female circumcision or FGM/C because there is no argument that avoids the prohibition of female circumcision, no medical benefit of implementing it, it acknowledges that female circumcision can be dangerous, and that female circumcision is not part of a commandment in Islam, but rather a tradition (*urf*) that had been developed in the society.³³

Based on the three Fatwas and opinions above, there is a suitable conclusion, which ends with the commitment that female circumcision should be avoided, because it is not part religious teaching, and its implementation will disadvantage women. In addition to the decision of the Tarjih, a prominent figure in Tarjih Council, Wawan Gunawan Abdul Wahid, also said that female circumcision also violates the right for women to live (*hifdh al-nafs*), whereas women have the right to be free from the illness because of the female circumcision practices.³⁴ Since 1959, the Mufti of Egypt, Syeikh Ali Gom'ah, has pronounced female circumcision as haram, and the Mufti of Al-Azhar, Muhammad Sayyed Thanthowi, support this Fatwa.³⁵

NU³⁶ uses five hadith for the issue of female circumcision, namely that the *khitān* (circumcision) is a sunnah (promoted) for men and honour for women (HR. Ahmad dari Usamah, Thabrani in al-Mu'jam al-Kabir dari Syaddad bin Aus dan Ibn Abbas); that there are five kinds of nature (*fīṭrah*), which include *khitān*, cutting the nails, and cutting the moustache (Bukhari, Muslim, Abu Daud, al-Darimi, Malik, and Ahmad); from Ummu Athiyah al-Anshariyah, there was a girl in Madinah who will be circumcised, as the Prophet said "Do not overcut on it, because that part will give advantage for woman and will pleasure the husband". The *ḥadīth* narrated by Abu Daud was regarded as *dlaif* (weak) as said by Abu Dawud, but he got two *syahid* (witnesses) which were *ḥadīth* Anas and *ḥadīth* Ummi Ayman, and narrated by Abu As-Syaikh in the book of Aqiqah, as well as the *ḥadīth* of Ad-Dlahhak Ibn Qays, narrated by al-Baihaqi as said by al-Adzim Abady the author of Aunul Ma'bud; and the last hadith that states 'Do circumcise and do not overcut, because circumcision will brighten the face and will make the husband fell more pleasure during intercourse', HR. ath-Thabarani and Al-Hakim from Adl-Dlahhak Ibn Qais, were regarded as *Ṣaḥīḥ* (correct) according to Imam Suyuthi, and the last hadith gives reference to the Prophet Ibrahim who was circumcised when he was 80 years old by a carpenter.

While the opinion of the ulama that was chosen is the opinion of Fath al-Bari Syarh Shahih al-Bukhari, there are still a variety of opinions among the ulamas regarding female circumcision. According to Imam Shafi'i's, circumcision is obligatory for men and women in *khitān al-ināth*, as circumcision is useful for men and women to reduce lust or libido, prevent unpleasant odors from the pile of dirt behind the *qulfaḥ*, and prevents sperm inflammation. The lesson learned from this practice is to preserve the *sharī'ah* of Allah and his Apostle for the purpose of purity, cleanliness, maintaining character, stabilizing lust, replacing traditions that are harmful and not in accordance with *sharī'ah*, to improve the *syi'ar* of worship not the cultural tradition, and to maintain the integrity of society so that circumcision is not applied in absolute ways. Additionally, Al-Majmu 'Syarh al-Muhadzdzab argues that female circumcision consists of cutting the part of the female genital where the penis enters. Here, the thin skin that covers the urethra is partially cut during female circumcision. Moreover, Bahr al-Ra'iq Syarh Kanz al-Daqa'iq states that female circumcision consists of cutting the skin on the top of the vagina that resembles a rooster's comb. The goal

³³ Muhammad Rofiq Muzakkir, *Problematika Fikih Perempuan*, Yogyakarta: Suara Muhammadiyah, 2017, 103-131.

³⁴ Wawan Gunawan Abdul Wahid, interview 9 November 2019. He is member of the Tarjih and Tajdid Council of Muhammadiyah. The interview was done during the question-and-answer session at the DKI Jakarta Tarjih Cadre High Level Training, 9-10 November 2019, in Jakarta.

³⁵ Yulianti Muthmainnah. Larangan Khitan Perempuan. Koran Kompas. 29 July 2011, 8. In <https://travel.kompas.com/read/2011/07/29/02515846/larangan.khitan.perempuan?page=all>. See UNICEF, Female Circumcision between the Incorrect Use of Science and the Misunderstood Doctrine Executive Summary, Al-Azhar University, 2013, 10. In <https://www.unicef.org/egypt/media/3576/file/FGM%20Summary.pdf> accessed 8 July 2019.

³⁶ Executive Board of Nahdlatul Ulama. "Khitan Perempuan, Solusi Problematika Aktual Hukum Islam". Keputusan Mukhtar, Munas, dan Kombes Nahdlatul Ulama Tahun 1926-2015M', and Keputusan Komisi Bahtsul Masail ad-Diniyyah al-Maudhu'iyah Mukhtar ke-32 Nahdlatul Ulama di Asrama Haji Sudiang Makassar, 06-13 Rabiul Akhir 1431 H/22-29 Maret 2010. Surabaya: Khalista dan Lembaga Ta'lim Wan Nasir, Cet-2, 2019. pp 1050-1064.

of cutting this part of the female genital is to reduce the female libido.

Furthermore, the NU fatwa mentions the meaning of '*sunnah*' and '*makrūmah*' in each hadith and the opinion of the selected ulama, which states that it is more advisable for men to be circumcised than women. Here, it can be interpreted that while men are 'sunah' circumcising, women are permissible. In other words, men are obligated, while women are sunnah. The opinion that says female circumcision is prohibited does not have a *syar'i* argument, except to see that female circumcision hurts the victim (women), while the hadith that explains female circumcision (Abui Dawud's hadith) does not show taklif and its validity is also doubtful.

Though there is a *fiqh* principal argument which states that '*adam al-dalil laisa bidalilin*' (the absence of an argument is not an argument), circumcision for men is recommended, while circumcision for women is not. Syarh Zad al-Mustaqni said circumcision was prescribed to purify men as well as to reduce the lust of women, as a woman's lust flares up as she is left without circumcision. Therefore, if her lust will flare up, circumcision is obtained '*iffah* (able to guard against the prohibited action).

Actually, the effort to influence the Fatwa to side with women and eliminate the female circumcision practices had been pursued by the Fatayat NU when discussing the Fatwa of female circumcision in Makassar, January 29-31, 2010. According to Maria Ulfa Anshor, who was Chairperson of Fatayat NU, said that it was Fatayat who proposed a script. The proposal was discussed in the Ulama National Conference, but the results of the decision were not in accordance with Fatayat's formulation. This is influenced by the perspective of National Conference participants who are biased towards the text, although Fatayat discusses female circumcision not only in text, but also, its context.³⁷ The prominent figures of NU cleric, Husein Muhammad, who has a good perspective on women's bodies and rejects female circumcision, has written a study related to female circumcision.³⁸ However, his opinion was also not made a reference by the participants in the NU National Conference. Mahbub Maafi, a NU figure, said 'female circumcision in Indonesia is different from the cases in Africa'. He further states that 'only liberal activists do not agree with the symbol of Islam about this female circumcision'.³⁹ This situation shows that it is still difficult for NU to accept inputs, although it comes from the internal community of NU, which includes the studies on the impact of female circumcision.

Furthermore, the MUI Fatwa on female circumcision in 2008 refers to the al-Qur'an in its Fatwa which includes QS. An-Nisa'[4]:125, QS. An-Nahl[16]:123, QS. Ali Imran[3]:95, QS. Ali Imran[3]:31, QS. Ali Imran[3]:32. There are several selected hadiths: First, 'Circumcision is the sunnah (decrees of the Prophet) for men and *makrūmah* for women' (HR. Ahmad); Second, Abdullah ibn Umar, the Messenger of Allah, said, "O..women of Anshor color your nails (with boyfriends and the like) and do circumcision, but do not overdo it" (al-Syaukani). Third, 'If you meet two circumcisions, then you must take a bath, I and the Messenger of Allah have done it, then we take a shower' (HR at-Turmudzi, Ibn Majah and Imam Ahmad from 'Aisyah r.a.). Fourth, the Umm 'Athiyyah r.a. asserts that in Medina there was a female circumcision being performed, and Rasulullah SAW said to the woman: 'Do not overdo it, because this is the happiest of women and the most favored of men (their husbands)'. Fifth, adh-Dhahhak bin Qais states that in Medina there is a female circumcision expert named Ummu 'Athiyyah, Rasulullah SAW who said to him: 'Do the *khifadh* (circumcision) and do not overdo it, because it brightens the face and benefit the husband more' (HR. At -Tabrani from adh-Dhahhak). Sixth, the five cases that constitute human nature: circumcision, *al-Istihdad* (shaving hair around the pubic), shaving the armpits, cutting nails, and cutting the mustache (HR Jama'ah from Abu Hurairah r.a.). To summarize, the opinion of the ulama (*qoul ulama*) who referred to the MUI gave the conclusion that all ulama agreed that circumcision for women was a requirement.

MUI Fatwa comprises three issues. First, that circumcision should be practiced for men and women, as it is the nature and symbols of Islam, and is perceived as glory and a form of worship. Second, the law

³⁷ Interview with Maria Ulfa Anshor, 11 April 2020.

³⁸ Husein Muhammad, *Fikih Perempuan*, Yogyakarta: LKiS-Ford Foundation, 2001, 49-56.

³⁹ Mahbub Maafi responded that NU agrees with the practice of female circumcision. He was one of the speakers at Fatwa methodology at Muhammadiyah, NU, and Persis', the Muhammadiyah High Level Tarjih Ulama Cadre Training, 27-28 December 2017 at Muhammadiyah Ki Bagus Hadikusumo Pesantren, Jombang-Bogor, which I attended.

regarding the prohibition of female circumcision, which is contrary to *shari'a* law because here, circumcision applies for both men and women, and is considered to be part of nature, and the nature of Islam. Third, the limits or procedures for female circumcision, which states that female circumcision should only be done by cutting the foreskin; expanding circumcised areas such as cutting (incision or excision) or injuring the clitoris that leads to excessive mutilation is considered haram.

The Fatwas of Muhammadiyah, NU, and MUI regarding the issue of female circumcision have many similarities when quoting verses from the Qur'an, al-Hadith, and the opinion of the same ulama. Reference of the three organizations is shown below.

Reference Organization	The Qur'a n	The Hadit h	Opinion s of the Ulamas	Conclusio n
Muhammadiyah	Yes	Yes	Yes	Yes
NU	No	Yes	Yes	No
MUI	Yes	Yes	Yes	No

Table 2: comparative decision

The same Quranic texts which are used by Muhammadiyah and MUI were QS. an-Nisa'[4]:125, QS. An-Nahl[16]:123, and QS. An-Nisa'[4]:125.

وَمَنْ أَحْسَنُ دِينًا مِمَّنْ أَسْلَمَ وَجْهَهُ لِلَّهِ وَهُوَ مُحْسِنٌ وَاتَّبَعَ مِلَّةَ إِبْرَاهِيمَ خَنِيفًا وَاتَّخَذَ اللَّهُ إِبْرَاهِيمَ خَلِيلًا

"And who is better in religion than one who submits himself to Allah while being a doer of good and follows the religion of Abraham, inclining toward truth? And Allah took Abraham as an intimate friend" (QS. An-Nisa'[4]:125).

ثُمَّ أَوْحَيْنَا إِلَيْكَ أَنْ اتَّبِعْ مِلَّةَ إِبْرَاهِيمَ خَنِيفًا وَمَا كَانَ مِنَ الْمُشْرِكِينَ

Then We revealed to you, [Muhammad], to follow the religion of Abraham, inclining toward truth; and he was not of those who associate with Allah. (QS. An-Nahl[16]:123)

The two verses above are interpreted as an order to follow the teachings of Ibrahim, which is not just about the oneness of Allah SWT, but also about the preaching that convey his teachings. While Muhammadiyah understood it as a circumcision order for men, the MUI interprets the circumcision order to be for both men and women, and as a *syiar* (spreading) of Islam.

Given that the hadiths were undertaken by the three organizations, some of the organizations agreed upon the same arguments, while others do not, as shown in this table.

Hadith	Organization	Muhammadiyah	NU	MUI
Prophet Ibrahim a.s was circumcised at 80 years old		Yes	Yes	No
Five natures, including circumcision		Yes	Yes	Yes
Ummu 'Athiyah, women were circumcised in Madinah, Prophet's message to not overdo the process of		Yes	Yes	Yes

circumcision			
Ummu 'Athiyyah, female circumcision provides a glow to the women's face and pleasure for the husband	Yes	Y e s	Y e s
Circumcision as an encouragement for men and honor for women	No	Y e s	Y e s
The obligation to bathe following the meeting of two genitals	Yes	N o	Y e s

Table 3: comparative hadith

The same hadith selected by these three organizations gave rise to different interpretations. Ummu 'Athiyyah's hadith, for example, demonstrates that MUI and NU women still have to be circumcised, but to not overdo it. NU added that by being circumcised, a women's libido will not be untamed or undomesticated, as it is only for her husband. While Muhammadiyah understood the Prophet's message about the circumcision in Medina, there is also a subtext which reads that female circumcision should not be overdone, as the clitoris actually gives pleasure to the husband when having sexual relations. Muhammadiyah understands that circumcision is an obligation for men, while MUI and NU also argues that it should also be done to women. As for the hadith, the meeting of the two sexes (who are circumcised), must be followed by taking a shower. Muhammadiyah understands that it means two different sexes without discussing circumcision, because this is an order to purify after sexual intercourse between husband and wife. It should be noted that the MUI understands that two different genital organs (penis, vagina) are both circumcised.

Conclusion

Sexuality issues and reproductive health cannot be separated from female circumcision. The practice of female circumcision hurts women's bodies, because it hurts the clitoris and vagina, and destroys the aim of the *maqāsid shari'ah* which provides comfort and assurance from pain or torture of the body. The purpose of female circumcision to curb women's libido is a patriarchal view, as it assumes that women are prostitutes, thereby their libido must be curbed. Given this, the interpretations should be read using a gendered perspective. Even though the verses in the Qur'an and *Hadith* is the same, if women's perspective and experience are not taken into consideration in the sources of Fatwa, then female circumcision will still be ordered, despite its reported negative effects, including the death of a girl.

I argue that Muhammadiyah Fatwas are in line with the laws that are moving in accordance with the times. Muhammadiyah argues that female circumcision is not an Islamic syllable command, has a very detrimental effect on women's bodies and sexual pleasure, as the clitoris plays a role in the enjoyment of sexual relations between husband and wife. On the contrary, NU argues that circumcision is a religious order; it is a way to curb libido, and control one's desires so that they are not too wild (untamed, undomesticated). MUI underlines the female circumcision part of the symbols of Islam, *syiar*, which should be carried out by men and women. However, the implementation of female circumcision has rules to not overdo it.

Recommendations for further research is needed after the negative impact known, including exploring how Muhammadiyah hospitals have campaigned to stop female circumcision according to their Fatwa.

Bibliography

- Adrina, et.al. *Hak-hak Reproduksi Perempuan yang Terpasung*, Jakarta: Pustaka Sinar Harapan. 1998.
- Anwar, Syamsul. 'Manhaj Tarjih Muhammadiyah'. Yogyakarta: Panitia Musyawarah Nasional Tarjih XXX, 1439 H/2018 M.
- Ariesta, Putri Septyaning Rahayu. *Praktik Sunat Anak Perempuan*. Thesis Magister Sociology at Faculty of Social and Politic Science. Airlangga University. 2018.

- Auda, Jasser. *Maqasid al-Shariah as Philosophy of Islamic Law*. London: The International Institute of Islamic Thought, 2007.
- Burhani, Ahmad Najib. Muhammadiyah in Oxford Islamic Studies Online, Oxford Islamic Studies Online, in <http://www.oxfordislamicstudies.com/article/opr/t343/e0296>, accessed 23 August 2019.
- Erni, Agustina, et.al. *Panduan Advokasi dan Sosialisasi Pencegahan Sunat Perempuan bagi Tokoh Agama*, Jakarta: KPP-PA. 2018.
- Erdianto, Kristian. *Indonesia Menerima 150 Rekomendasi Terkait Hak Perempuan dan Anak*, Kompas, 18/05/2017, in <https://nasional.kompas.com/read/2017/05/18/13574221/indonesia.menerima.150.rekomen.dasi.terkait.hak.perempuan.dan.anak>, accessed 15 January 2019.
- Farida, Jauharotul Farida. et.al, Sunat Pada Anak Perempuan (Khifadz) dan Perlindungan Anak Perempuan Di Indonesia: Studi Kasus Di Kabupaten Demak. *Jurnal SAWWA*, Vol.12, No.3, (Oktober 2017), 371.
- HanafiMahmoud, Manal Ibrahim. "Effect of female genital mutilation on female sexual function, Alexandria, Egypt", *Alexandria Journal of Medicine*, Vol.52 (March 2016): 55-59 in <https://www.sciencedirect.com/science/article/pii/S2090506815000238>, accessed 30 January 2022.
- Ida, Rachmah. *Sunat, Belenggu Adat Perempuan Madura*. Yogyakarta: PSKK UGM-Ford Foundation. 2004.
- Irianto, Sulistyowati. "Kawin Kontrak dalam Perspektif Pluralisme Hukum dan Perempuan". *Jurnal Srintil Desantara: Ketika Aurat Dikuasai Surat*. Vol.4 (2003).
- *Perempuan dan Hukum yang Berperspektif Kesetaraan dan Keadilan*. Jakarta: Yayasan Obor Indonesia, 2006.
- Kementerian Kesehatan RI. Peraturan Menteri Kesehatan Nomor 1636/MENKES/PER/XI/2010 tentang Khitan Perempuan.
- Peraturan Menteri Kesehatan Nomor 6/MENKES/PER/II/2014 tentang Pencabutan Peraturan Menteri Kesehatan Nomor 1636/MENKES/PER/XI/2010 tentang Khitan Perempuan.
- Mahfudh, Sahal. *Nuansa Fikih Sosial*, Yogyakarta: LKiS, 2004, xxiii-li.
- Makoye, Kizito. *Baby Girl Dies in Tanzania After FGM by Great-Grandmother*. Reuters, 1 February 2017 in <https://www.reuters.com/article/us-tanzania-fgm-idUSKBN15F2DB> accessed 29 January 2022.
- Majelis Tarjih dan Tajdid Muhammadiyah. Bab IV Pemikiran Manhaj dalam Islam. Keputusan Munas Tarjih XXV tentang Manhaj Tarjih dan Pengembangan Pemikiran Islam Tahun 2000.
- Sejarah Majelis Tarjih. In <http://tarjih.muhammadiyah.or.id/content-3-sdet-sejarah.html>, accessed 27 February 2019.
- Fatwa-fatwa Tarjih, Buku Tanya Jawab Agama Jilid 2, Cet-6. Yogyakarta: Suara Muhammadiyah. 2004.
- Draft Materi Fikih Perempuan Musyawarah Nasional Tarjih ke-27 Tahun 2010, Malang, East Java.
- MUI. Fatwa MUI Nomor 9A, 2008 tentang Hukum Pelarangan Khitan Perempuan in <http://mui.or.id/wp-content/uploads/files/fatwa/29-Hukum-Pelarangan-Khitan-Terhadap-Perempuan.pdf> accessed 27 February 2019.
- Pendapat Komisi Fatwa tentang Hukum Pelarangan Khitan terhadap Perempuan, ditetapkan in Jakarta in the meeting on 9 Desember 2006/18 Dzulqo'dah 1427 H, 3 Mei 2008, and 7 Mei 2008, in <http://mui.or.id/wp-content/uploads/files/Fatwa/29-Hukum-Pelarangan-Khitan-Terhadap-Perempuan.pdf> accessed 27 February 2019.
- Muhammad, Husein. *Fikih Perempuan*. Yogyakarta: LKiS-Ford Foundation, 2001.
- Musyarofah, Ristiani. et.al. *Khitan Perempuan antara Tradisi dan Ajaran Agama*. Yogyakarta: PSKK UGM-Ford Foundation. 2003.
- Muthmainnah, Yulianti. "Aisyiyah dan Ijtihad Berkemajuan untuk Hak-Hak Perempuan", *Jurnal Maarif*, Vol.14, No.2 (2019).
- "Lagi, Soal Khitan Perempuan". *Al-Ahram Rahima*, Edisi 48B (2012).
- Larangan Khitan Perempuan. *Koran Kompas*. 29 July 2011, 8. In <https://travel.kompas.com/read/2011/07/29/02515846/larangan.khitan.perempuan?page=all>.

- Muzakkir, Muhammad Rofiq. *Problematika Fikih Perempuan*. Yogyakarta: Suara Muhammadiyah. 2017.
- Nurdiyana, Tutung. "Sunat Perempuan Pada Masyarakat Banjar di Kota Banjarmasin". *Jurnal Komunitas*, Vol.2, No.2 (2010).
- Pengurus Besar Nahdlatul Ulama. "Khitan Perempuan, Solusi Problematika Aktual Hukum Islam". Keputusan Muktamar, Munas, dan Kombes Nahdlatul Ulama Tahun 1926-2015M', and Keputusan Komisi Bahtsul Masail ad-Diniyyah al-Maudhu'iyah Muktamar ke-32 Nahdlatul Ulama di Asrama Haji Sudiang Makassar, 06-13 Rabiul Akhir 1431 H/22-29 Maret 2010. Surabaya: Khalista dan Lembaga Ta'lif Wan Nasyr, Cet-2, 2019.
- Perempuan, Komnas. *Persimpangan antara Tradisi dan Modernitas, Hasil Kajian Kualitatif Pemotongan, Pelukaan, Genitalia Perempuan (P2GP) di 10 Provinsi 17 Kabupaten/Kota*. Jakarta: Komnas Perempuan. 2018. In https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf_file/2019/Hasil%20Kajian%20Kualitatif%20Pemotongan-Pelukaan%20Genitalia%20Perempuan%20di%2010%20Propinsi-%202017%20Kabupaten-Kota.pdf, accessed 02 January 2019.
- Pimpinan Pusat Muhammadiyah. Anggaran Dasar Muhammadiyah. in <https://muhammadiyah.or.id/anggaran-dasar/>, accessed 16 August 2019.
- Pink, Johanna. "Tradition, Authority and Innovation in Contemporary Sunni tafsir: Toward a Typology of Qur'an Commentaries from the Arab World, Indonesia and Turkey", *Journal of Qur'anic Studies*, Edinburgh University Press, SOAS. 2010. In https://www.jstor.org/stable/25831165?read-now=1&refreqid=excelsior%3Aef1dbb69c13ca5adaa5c64ec8229abdd&seq=1#page_scan_tab_contents Accessed 29 January 2022.
- Rokhmah, Islamiyatur. et.al. "Sunat Perempuan dalam Perspektif Budaya, Agama dan Kesehatan (Studi Kasus di Masyarakat Desa Baddui Kecamatan Galesong Kabupaten Takalar Sulawesi Selatan)", *Jurnal Kebidanan dan Keperawatan*, Vol.11, No.2 (Desember 2015).
- Salma. "Tradisi Sunat Perempuan di Lampasi Ligo Nagari". *Jurnal al-Manahij*, Vol.X, No.1 (2016).
- Sumarni, et.al. *Sunat Perempuan di Bawah Bayang-bayang Tradisi*. Yogyakarta: PSKK UGM-Ford Foundation. 2005.
- Suryadilaga, M. Alfatih. "Khitan Perempuan dalam Perspektif Hadist". in Mochamad Sodik (ed). *Telaah Ulang Wacana Seksualitas*. Yogyakarta: PSW IAIN Sunan Kalijaga-Depag-McGill-IISEP-CIDA. 2004.
- The Guardians. *10 Years Old Girl Bleeds to Death after Female Circumcision in Somalia*. 2019. In <https://www.theguardian.com/global-development/2018/jul/20/10-year-old-girl-death-fgm-female-genital-mutilation-somalia> accessed 29 January 2022.
- Udin, Jurnalis. et.al. *Female Circumcision: A Social, Cultural, Health and Religious Perspectives*. Jakarta: Yarsi University Press. 2009.
- UNICEF, Female Circumcision between the Incorrect Use of Science and the Misunderstood Doctrine Executive Summary, Al-Azhar University, 2013, 10. In <https://www.unicef.org/egypt/media/3576/file/FGM%20Summary.pdf> accessed 8 July 2019.
- Interview:
- Mahbub Maafi, interview 27 December 2017.
- Marzuki Wahid, interview, 4 March 2019.
- Wawan Gunawan Abdul Wahid, interview 9 November 2019.
- Maria Ulfa Anhor, interview, 11 April 2020.

Perbaikan ke 4

Progresivitas Penafsiran Ayat-ayat Al-Qur'an dalam Putusan/Fatwa Muhammadiyah; Isu Seksualitas dan Kesehatan Reproduksi Perempuan

Abstrak

Masyarakat Muslim Indonesia terbiasa meminta dan menjalankan fatwa keagamaan terkait ibadah atau muamalah pada organisasi keagamaan. Ragamnya organisasi keagamaan memunculkan fatwa yang beragam pula. Tulisan ini membandingkan fatwa Muhammadiyah, Nahdhatul Ulama, dan Majelis Ulama Indonesia pada isu sunat perempuan dan hubungan seksual suami istri. Metode penelitian kualitatif dengan wawancara dan studi pustaka. Sumber primer adalah fatwa-fatwa organisasi keagamaan dan wawancara. Sumber sekunder dari studi pustaka. Sekalipun fatwa Muhammadiyah dipandang paling progresif dan memiliki perspektif kesetaraan dan keadilan gender yang kuat, namun fatwa tersebut ini tidak mengakar dan tidak diterapkan oleh amal usaha Muhammadiyah, misalnya rumah sakit.

Pendahuluan

Fenomena sunat perempuan (khitan perempuan) tetap dilaksanakan di berbagai daerah (Adrina, 1998 dan Suryadilaga, 2004), utamanya di Madura-Jawa Timur, Banten, dan Lampung (Musyarofah, 2003 dan Sumarni, 2005). Isu seksualitas seperti hubungan seksual suami-isteri masih tabu dibahas secara terbuka bagi sebagian masyarakat Indonesia. Dua isu itu memunculkan interpretasi dan fatwa yang berbeda-beda terhadap ayat-ayat maupun *hadits*¹ yang sama dipakai sebagai rujukan hukum.

Tulisan ini tidak bermaksud menyalahkan satu interpretasi dan membenarkan interpretasi yang lain. Apalagi dalam pengambilan *ijtihad*ⁱⁱ, dalam kaidah *fikih*ⁱⁱⁱ yang disandarkan pada hadits Nabi Muhammad SAW yang terkenal, adalah memberikan dua pahala jika benar dan satu pahala jika salah dalam melakukan *ijtihad*. Akan tetapi, interpretasi tersebut perlu dibaca dengan *maqasid syari'ah*^{iv} dan hukum yang berperspektif perempuan. Ini penting, karena interpretasi sebuah ayat pada akhirnya menghasilkan sebuah hukum yang tidak berada dalam ruang hampa (Wadud, 2001 dan Engineer, 2003). Tetapi, dipengaruhi oleh ragam cara pandang dan faktor-faktor seperti sosial, politik, budaya, bahasa dan aktor-aktor seperti Negara, laki-laki yang memiliki kepentingan tertentu atau orang-orang yang merumuskan hukum tersebut (Mernissi, 1997 dan El-Saadawi, 2001), sehingga berpotensi memunculkan ketidakadilan gender pada perempuan (Fakih, 1996).

Maqasid syari'ah harus menganalisa krisis kemanusiaan dan memperbaharui metodologinya agar sesuai dengan peradaban kontemporer yang saat ini dibutuhkan (Jasser, 2007). Itu sebabnya, *maqasid syariah* harus berperspektif perempuan. Yakni pertama, memaknai *hifdh ad-din* sebagai hak keyakinan/beragama. Bahwa perempuan diberi hak mengaktualisasikan caranya beragama, termasuk cara perempuan menunjukkan identitasnya ketika beribadah atau kehidupan sehari-hari dengan memakai mukena, hijab, selendang, atau baju kurung. Kedua, *hifdh an-nafs* yakni menjaga kehidupan, termasuk hak untuk sehat dan

terbebas dari penyakit yang mengancam hidup perempuan. Ketiga, *hifdh al-'aql* adalah menjaga akal. Hak perempuan untuk berfikir, berpolitik, dan mengekspresikan fikirannya. Keempat, *hifdh an-nasl* yaitu menjaga keturunan, hak untuk mengekspresikan seksualitas secara sehat dan jaminan atas hak kesehatan reproduksi, termasuk hak memiliki keturunan. Terakhir, kelima *hifdh al-māl* adalah menjaga hak kepemilikan atas harta benda, yakni perempuan berhak mendapatkan harta atau pekerjaan yang layak untuk keberlangsungan hidupnya.

Adapun hukum yang berperspektif perempuan berarti mempersoalkan perempuan dalam hukum yang memuat tiga unsur yakni *pertama*, menguji apakah hukum telah gagal memperhitungkan pengalaman perempuan, merugikan perempuan, atau hukum berperan ganda pada perempuan. *Kedua*, menerapkan metode kritis terhadap penerapan hukum. *Ketiga*, menggunakan kasus-kasus perempuan sebagai alat analisa untuk melihat hubungan kekuasaan antara laki-laki dan perempuan (Irianto, 2003). Keduanya—*maqasid syari'ah* dan hukum perspektif perempuan—akan digunakan untuk menganalisa ayat-ayat dan hadits tersebut.

Muhammadiyah dalam tulisan ini mendapatkan porsi pembahasan lebih banyak, selain karena alasan sebagai organisasi keagamaan pertama yang lahir di Indonesia, Muhammadiyah, merupakan organisasi terbesar dalam segi asset, modernis, dan mengusung gagasan berkembang (Burhani, 2018 dan Fanani, 2018). Sehingga tulisan ini juga membuktikan Muhammadiyah progresif dalam menghasilkan fatwa yang berpihak pada perempuan (Muthmainnah, 2019). Studi ini menggunakan metode deskriptif. Teknik analisis data berupa analisis isi (*content analysis*) atas fatwa atau sikap resmi organisasi. Data primer diperoleh dari fatwa yang dikeluarkan Muhammadiyah, NU, dan MUI. Data sekunder diperoleh dari wawancara dengan pihak-pihak yang berafiliasi dengan tiga organisasi tersebut serta tulisan yang telah dipublikasi maupun berita-berita media yang telah diverifikasi. Selanjutnya dianalisa untuk menarik kesimpulan.

Selain Muhammadiyah, baik MUI dan NU cukup sering mengeluarkan fatwa terkait isu perempuan dan seksualitas. Selain fatwa sunat perempuan, dua fatwa lainnya yakni hubungan seksual suami isteri dan aborsi juga mendapatkan tempat dalam pembahasan ini. Guna keperluan kajian ini, penulis menggunakan dokumen-dokumen fatwa yang diterbitkan oleh lembaga-lembaga tersebut. Untuk fatwa sunat perempuan perempuan yang dikeluarkan Muhammadiyah, penulis menggunakan dokumen buku 'Fatwa-fatwa Tarjih Tanya Jawab Agama Jilid 2', 'Draft Majelis Tarjih dan Tajdid tentang Materi Fikih Perempuan Tahun 2010', dan buku 'Problematika Fikih Perempuan'. ~~Isu aborsi menggunakan 'Keputusan Mukhtamar Tarjih XXII tentang Aborsi tahun 1989' dan 'Fatwa tentang Nifas bagi Ibu, Perawatan Jenazah, Pemberian Nama dan Alkikah bagi Janin pasca Abortus tahun 2010'. Tema hubungan seksual suami isteri menggunakan 'Putusan Tarjih tentang Keluarga Sakinah Tahun 2015' dan 'Draft Majelis Tarjih dan Tajdid tentang Materi Fikih Perempuan Tahun 2010',~~

Sedangkan untuk NU, sumber primer menggunakan 'Keputusan Komisi Bahtsul Masail ad-Diniyyah Nomor 464 tentang Hukum Aborsi' dan 'Keputusan Komisi Bahtsul Masail ad-Diniyyah al-Maudhu'iyah ke-32 tentang Khitan Perempuan'. Adapun fatwa MUI berdasarkan 'Fatwa Nomor 4 Tahun 2005 tentang Aborsi' dan 'Fatwa Tahun 2000 tentang Aborsi, untuk Khitan Perempuan menggunakan Fatwa tentang Hukum Pelarangan Khitan terhadap Perempuan Tahun 2008'.

Pertanyaan penelitian Tulisan ini membahas progresivitas putusan keagamaan atau fatwa Muhammadiyah pada ayat-ayat al-Qur'an yang terkait isu-isu seksualitas dan kesehatan reproduksi perempuan. Untuk menjelaskan hal itu, tulisan ini akan menarasikan dua pokok pembahasan. *Pertama*, bagaimanakah ayat-ayat al-Qur'an yang sama tentang isu-isu seksualitas

dan hak kesehatan reproduksi perempuan seperti sunat perempuan, aborsi, dan hubungan seksual suami isteri ditafsirkan dan dimaknai secara berbeda oleh tiga organisasi keagamaan Islam di Indonesia yakni Muhammadiyah, Nahdlatul Ulama (NU) dan Majelis Ulama Indonesia (MUI). *Kedua*, bagaimanakah hukum Islam berperspektif perempuan memandang fatwa yang dihasilkan oleh ketiga organisasi tersebut.

Penelitian ini adalah penelitian kualitatif, dengan metode wawancara tokoh, mengambil pendapat tokoh dari workshop yang saya ikuti, penelusuran fatwa sebagai dokumen resmi organisasi keagamaan.

Isu Seksualitas dan Kesehatan Reproduksi Perempuan di Indonesia

~~Hubungan seksual suami isteri sebagai isu seksualitas, aborsi dan sunat perempuan sebagai isu kesehatan reproduksi sudah masuk dalam kebijakan nasional di Indonesia. Pertama, sunat perempuan.~~

Salah satu isu yang terkait dengan seksualitas dan kesehatan reproduksi adalah sunat perempuan. Telah banyak kajian dan penelitian terdahulu yang membahasnya. Berikut ini adalah penelitian yang membuktikan sunat perempuan masih terjadi hampir di semua pulau besar di Indonesia, seperti di Sumatera, Jawa, Kalimantan, dan Sulawesi.

Rokhmah dan Hani mengatakan bahwa **Suku** Bodia Takalar, di Desa Baddui, Makassar, Sulawesi Selatan sunat dilakukan oleh dukun, bukan tenaga medis, dengan menggoreskan ujung klitoris dengan pisau yang telah digunakan untuk memotong jengger ayam (Rokhmah dan Hani, 2015). Di Kota Banjar, Banjarmasin, Kalimantan Selatan, Tutung Nurdiana menemukan bahwa sunat perempuan dilakukan pada anak usia 40 hari hingga 12 tahun, yang dilakukan oleh bidan atau dukun, dengan memotong atau menggores klitoris. Ada yang memotong sedikit, ada yang memotong terlalu banyak sehingga berdampak perempuan mengalami gangguan seksualitas seperti tidak merasakan rangsangan seksual (Nurdiana, 2010). Kabupaten Sampang dan Kabupaten Situbondo, Jawa Timur mempraktikkan sunat perempuan ketika bayi perempuan baru lahir sebagai paket biaya persalinan bersama tindik telinga, hal ini dilakukan oleh bidan ataupun dukun (Ariesta, 2018). Sedangkan prosesi sunat perempuan di Lampasi Ligo Nagari, Sumatera Barat dimulai dengan basmalah, niat menyunat anak perempuan untuk mengislamkan anak, lalu menggoreskan ujung klitoris untuk menyebabkan luka hingga berdarah bila anak mengeluh sakit dan menangis maka sunat telah selesai. Diakhiri dengan menceritakan kisah-kisah hiroik dalam Islam (Salma, 2016).

Dari seluruh penelitian di atas, alasan sunat perempuan mayoritas masih dipengaruhi pandangan agama yakni menjalankan kewajiban agama agar seorang anak perempuan menjadi muslim. Kyai atau ulama berperan sangat besar untuk memaksa praktik itu dilakukan.

Rokhmah, Islamiyatur and Hani, Ummu. 2015. Jurnal Kebidanan dan Keperawatan, Vol. 11, No. 2, Desember 2015: 103-111

Nurdiana, Tutung. 2010. Sunat Perempuan Pada Masyarakat Banjar Di Kota Banjarmasin. Jurnal Komunitas 2 (2) (2010) : 116-124

Ariesta, Putri Septyaning Rahayu. 2018. Praktik Sunat Anak Perempuan. Tesis Magister Sosiologi di Fakultas Ilmu Sosial dan Ilmu Politik. Universitas Airlangga.

Salma. 2016. Tradisi Sunat Perempuan di Lampasi Ligo Nagari. Jurnal al-Manahij. Vol X No. 1. 155- 167.

Sunat Perempuan Dalam Perspektif Budaya, Agama dan Kesehatan (Studi Kasus Di Masyarakat Desa Baddui Kecamatan Galesong Kabupaten Takalar Sulawesi Selatan) *Menjadi Islam bukan dengan sunat, tapi syahadat*

Pemerintah Indonesia sudah mendapatkan banyak rekomendasi internasional untuk menghapuskannya. Misalnya, 1 Juni 2001, laporan dari United States Department of State about Indonesia: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC). Lalu, Komentar Komite CEDAW tahun 2007, laporan dari Pelapor Khusus PBB Juan E. Mendez tahun 2011,^v rekomendasi hasil sidang Universal Periodic Review 2017, dan SDGs Goal 5 tentang praktik yang membahayakan tubuh perempuan. Pemerintah Indonesia senantiasa mendapatkan komentar dan rekomendasi untuk menghapuskan praktik yang senantiasa pencampuradukan antara tradisi dan paradigma agama yang bias gender (Muthmainnah, 2018). Namun hingga saat ini, sunat perempuan masih dipraktikkan di sejumlah daerah.

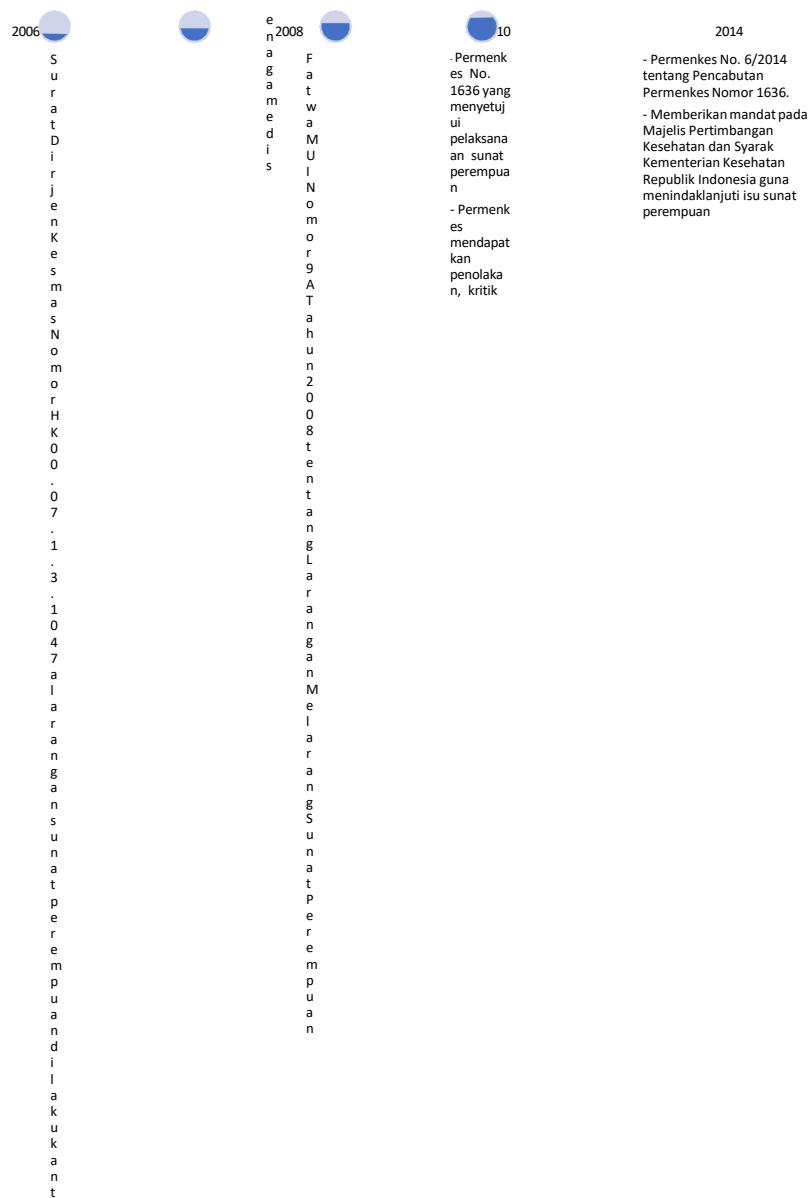
Upaya menghapuskan sunat perempuan melalui kebijakan resmi pemerintah dimulai melalui Surat Edaran Nomor: HK 00.07.1.3.1047a tentang Larangan Medikalisasi Sunat Perempuan bagi Petugas Kesehatan yang dikeluarkan oleh Direktur Jenderal Kesehatan Masyarakat, Kementerian Kesehatan Republik Indonesia, pada 20 April 2006. Isinya memberikan instruksi larangan bagi tenaga kesehatan melakukan sunat perempuan. Tetapi, kebijakan ini ditentang MUI. Tanggal 7 Mei 2008, MUI mengeluarkan Keputusan Fatwa Nomor 9A Tahun 2008 tentang Larangan Melarang Sunat Perempuan. Isinya, sunat bagi perempuan adalah *makrumah* (memuliakan) dan pelarangan sunat bagi perempuan dianggap bertentangan dengan syiar Islam. Fatwa MUI ini membuat kebijakan Indonesia yang sudah tegas menolak sunat perempuan, kembali mundur.

Kementerian Kesehatan merespons fatwa MUI dengan mengeluarkan Peraturan Menkes Nomor 1636 Tahun 2010 yang menyetujui pelaksanaan sunat perempuan. Agar tetap steril, sunat perempuan dilakukan oleh tenaga medis. Permenkes 1636 mendapatkan penolakan dan reaksi keras dari para aktivis dan masyarakat yang peduli pada isu sunat perempuan. Sehingga, terbitlah Peraturan Menteri Nomor 6 Tahun 2014 tentang Pencabutan Permenkes Nomor 1636 tersebut. Pasal 1 Permen 6/2014 secara tegas menyebutkan Peraturan Menteri Kesehatan Nomor 1636/Menkes/Per/XII/2010 tentang Sunat Perempuan dicabut dan dinyatakan tidak berlaku. Pasal 2 memberikan mandat kepada Majelis Pertimbangan Kesehatan dan Syarak menerbitkan pedoman penyelenggaraan sunat perempuan yang menjamin keselamatan dan kesehatan perempuan yang disunat serta tidak melakukan mutilasi alat kelamin perempuan (*female genital mutilation/FGM*).

Lalu, Majelis Pertimbangan Kesehatan dan Syarak Kementerian Kesehatan Republik Indonesia, sebagai majelis yang dibentuk oleh Kementerian Kesehatan dan bertanggung jawab terhadap menteri kesehatan, mengeluarkan surat Nomor 05/MPKS/II/2014 tentang Penyampaian Pedoman Sunat Perempuan yang ditujukan kepada menteri kesehatan tertanggal 26 Februari 2014. Isinya penyelenggaraan sunat perempuan termasuk fitrah dan syiar Islam, hukumnya *makrumah* sebagai ibadah yang dianjurkan, sunat perempuan cukup dengan menghilangkan selaput (*jaldah/columprea-pupotium*) yang menutupi klitoris dan tidak boleh berlebihan seperti memotong atau melukai klitoris (insisi dan eksisi) yang mengakibatkan *dharar*.^{vi} Karena kebijakan nasional membolehkan praktik sunat perempuan,

di akar rumput praktik ini menelan korban jiwa. Laporan Komisi Nasional Anti Kekerasan terhadap Perempuan menyebutkan kematian bayi perempuan di Banten akibat sunat perempuan terjadi (Komnas Perempuan, 2013).

Di bawah ini adalah alur kebijakan nasional tentang sunat perempuan yang dikeluarkan oleh Kementerian Kesehatan.



26 Febr uari 201 4	S y a r a k m e	n g e l u a r k	an surat 05/MPKS/ II/2014 tentang Penyampa ian Pedoman Sunat	Perempuan, ditujukan kepada menteri kesehatan - Majelis Syarak menyusun keputusan sunat perempuan tetapi dilaksanakan tetapi tidak boleh melukai atau memotong kitoris
- Majelis				

Muhammadiyah dan Proses Pembentukan Produk Tarjih

Bagian ini deskripsi profil singkat Muhammadiyah dan bagaimana, melalui pendirian Majelis Tarjih dan Tajdid (MTT), Muhammadiyah menjalankan mekanisme menyusun produk-produk tarjihnya (produk-produk fatwanya). Hingga menghasilkan produk fatwa yang saya sebut progresif.

Muhammadiyah mendefinisikan dirinya sebagai gerakan Islam, dakwah amar makruf nahi munkar dan tajdid, bersumber kepada al-Quran dan as-Sunnah, berasaskan Islam.^{vii} Yang kini telah menjadi organisasi muslim modernis terbesar di Indonesia yang didirikan oleh KH. Ahmad Dahlan pada 18 November 1912 setelah mendapat pengaruh gerakan modernism Islam di Mesir yang digaungkan oleh Muhammad Abduh dan muridnya, Rashid Rida. Meski menyerukan untuk kembali kepada ajaran al-Quran dan as-Sunnah,^{viii} Muhammadiyah sejak awal hingga kini tidak banyak berpolemik pada isu-isu politik dan lebih fokus menjalankan kegiatan keorganisasiannya dengan cara mendirikan sekolah modern, rumah sakit, pesantren, panti asuhan, mikro ekonomi, dan badan usaha lainnya yang memberikan layanan-layanan sosial kepada jemaahnya.

Melalui usaha-usaha yang dilakukan oleh KH. Mas Masyur, salah satu tokoh awal organisasi ini, Muhammadiyah membentuk satu majelis yang bernama Majelis Tarjih dan Tajdid tahun 1927 di Pekalongan.^{ix} Fungsi dari majelis ini adalah menghasilkan fatwa atau memastikan adanya hukum tentang masalah-masalah tertentu.

‘Majelis Tarjih’ Muhammadiyah menggunakan metode *tarjih*, yakni memilih salah satu dan, konsekuensinya, meninggalkan yang lain bilamana terdapat makna dari dua al-Hadist atau lebih yang tampak berlawanan. Pada proses pengambilan hukumnya didasarkan pada al- Quran dan al-Hadist terutama masalah baru yang belum ada ketetapan hukumnya atau masalah yang senantiasa diperselisihkan di tengah masyarakat.

Cita-cita utama pendirian majelis ini karena Muhammadiyah menemukan masyarakat masih memiliki cara pandang yang berbeda-beda dalam menjalankan suatu hukum atau perkara *fikih* yang memiliki isu sama. Situasi ini menimbulkan keresahan tersendiri di tengah masyarakat, terutama pada nilai-nilai pembentukan karakter warga persyarikatan, maka dipandang perlu membentuk sebuah lembaga yang mampu mengkompilasi perbedaan hukum agama di tengah masyarakat termasuk mencari solusi bagi isu-isu yang belum ada

kesepakatan dikalangan ulama terdahulu dengan tetap mengedepankan nilai-nilai perlindungan hak-hak individu.^x

Pada perkembangannya, Majelis Tarjih dan Tajdid selain bersumberkan pada al-Quran dan as-Sunnah, juga mengadopsi perkembangan pemikiran Islam.^{xi} Semangat *tarjih* juga memuat perspektif paham agama, tidak berafiliasi pada mazhab tertentu, wawasan *tajdid*, wawasan toleransi, wawasan keterbukaan dan menerima ide-ide kemajuan yang ada di tengah masyarakat menjadi bahan pertimbangan (Anwar, 2018).^{xii} Itu sebabnya, Muhammadiyah tidak *taqlid* untuk mengikuti secara rigid terhadap salah satu dari empat *madzhab* yang *muktabar* dalam Islam. Melainkan, menggaungkan *ijtihad* untuk menafsirkan dan memahami secara langsung terhadap al-Quran dan as-Sunnah. Dalam memahami as-Sunnah, Muhammadiyah dan 'Aisyiyah—sebagai organisasi otonom perempuan Muhammadiyah—hanya mengambil as-Sunnah yang *shahih*. Al-Hadits atau as-Sunnah yang *dha'ir*^{xiii} tidak diamalkan, meskipun untuk ibadah-ibadah yang sifatnya adalah keutamaan.

Metode tarjih ini selanjutnya menggunakan *ijtihad bayani*, *ijtihad qiyashi*, dan *ijtihad istislahi*. Pertama, *ijtihad bayani* adalah *ijtihad* yang terkait dengan kebahasaan. Misalnya, suatu ayat diartikan *majaz*, lafal *musytarak* (ambiguitas), ayat-ayat yang berlaku umum ('*am*) atau *mubayyan*, berlaku khusus dan menerangkan *khass* atau *mubayyin*, ayat-ayat *qath'i* dan ayat-ayat *dhanni*, ayat yang bersifat perintah (termasuk wajib, sunnah, makruh, atau haram), termasuk pula menjelaskan hukum yang perkaranya sudah ada dalam al-Quran. Kedua, *ijtihad qiyasi* sering disebut dengan *ta'lili*, secara umum *ijtihad* ini adalah *ijtihad* yang dilakukan untuk mendapatkan hukum suatu masalah yang tidak ada *nash*nya secara langsung dalam al-Qur'an. Sehingga dibutuhkan penalaran yang menjadikan '*illat* sebagai landasannya. Cara menemukan '*illat* digunakan metode *qiyas* (perumpamaan) dan *istisnā* serta pengubahan hukum itu sendiri sekiranya ditemukan '*illat* baru sebagai pengganti '*illat* yang lama. Ketiga, *ijtihad istislahi* adalah *ijtihad* yang dilakukan untuk identifikasi masalah yang belum memiliki *nash* dalam al-Qur'an sebagai rujukan.^{xiv}

Selain metode di atas, Majelis Tarjih dan Tajdid juga menggunakan perspektif perempuan. Kontribusi para ulama Muhammadiyah yang memiliki perspektif isu perempuan yang baik ditambah para pimpinan 'Aisyiyah yang juga mendesak kebutuhan perempuan dan anak dalam wacana *fiqih* berkontribusi besar menghasilkan produk Tarjih yang pro perempuan dan anak.^{xv} Salah satu contoh Putusan Majelis Tarjih dan Tajdid yang selama proses diikuti dan dikawal pembahasannya oleh Pimpinan Pusat 'Aisyiyah adalah Keluarga Sakinah. Putusan ini sangat berpihak pada perempuan karena unsur monogami, kesetaraan suami isteri dalam kehidupan rumah tangga, dan tidak boleh ada kekerasan dalam rumah tangga adalah ciri utama keluarga sakinah yang menjadi tuntunan hidup warga Muhammadiyah (Muthmainnah, 2019).

Adapun produk-produk yang dihasilkan Majelis Tarjih dan Tajdid diantaranya yakni Putusan Majelis Tarjih, Fatwa Majelis Tarjih, dan Wacana Tarjih. Perbedaan diantara ketiganya adalah jika Putusan Majelis Tarjih sudah melalui *tanfidz* yang melibatkan seluruh majelis wilayah di 34 provinsi dan disetujui secara mufakat sehingga mendapatkan legitimasi persyarikatan Pimpinan Pusat Muhammadiyah. Fatwa Majelis Tarjih merupakan produk hukum Islam dari jawaban atas pertanyaan-pertanyaan yang diajukan warga persyarikatan ataupun masyarakat umum. Jawaban-jawaban ini pada umumnya disidangkan setiap hari Jumat, kemudian diunggah ke website Majelis Tarjih dan Tajdid, dimuat dalam majalah Suara Muhammadiyah, atau dicetak dalam buku Fatwa-fatwa Tarjih Tanya Jawab Agama. Adapun Wacana Tarjih umumnya adalah perspektif atau pendapat dari individu yang ada di Majelis

Tarjih, sehingga pendapat ini tidak bisa dijadikan rujukan pandangan kelembagaan secara resmi. Namun, sebagai rujukan pengetahuan tentu sangat bisa.^{xvi}

Tubuh Perempuan dalam Pertarungan Fatwa

Indonesia bukanlah negara yang menjalankan hukumnya berdasarkan hukum agama Islam, tetapi hukum nasional. Faktanya sebagai negara dengan mayoritas penduduk Muslim terbesar di dunia, fatwa-fatwa yang dihasilkan oleh organisasi atau pendapat tokoh agama, ~~umumnya dijalankan umat~~ ~~umumnya memperoleh perhatian dari kalangan umat Islam~~. Selain fatwa yang dihasilkan oleh Majelis Tarjih dan Tajdid (MTT) ~~Pimpinan Pusat Muhammadiyah (PP Muhammadiyah)~~, terdapat dua produk fatwa yang sering dijadikan rujukan oleh muslim Indonesia, yaitu fatwa yang dikeluarkan oleh Komisi Fatwa ~~Majelis Ulama Indonesia (MUI)~~ dan fatwa yang berasal dari Bahtsul Masail ~~Nahdlatul Ulama (NU)~~.

Dalam menyusun fatwa, Muhammadiyah dan MUI konsisten merujuk ayat-ayat dalam al-Qur'an dan hadist-hadist yang mendukung ayat tersebut sebagai hukum Islam tertinggi. Adapun kaidah fikih atau pendapat ulama tidak selalu dirujuk oleh keduanya. Ini berbeda dengan NU yang melakukan hal sebaliknya. NU mula-mula merujuk pendapat ulama, serta mempertimbangkan kaidah fikih. Adapun ayat-ayat al-Qur'an jarang dirujuk langsung oleh NU. Lembaga yang memutuskan fatwa NU disebut Bahtsul Masail. Metode fatwa Bahtsul Masail NU ada tiga. *Pertama*, metode *qauli*, penggalan hukum berdasarkan pendapat ulama fikih yang sudah tertera dalam kitab-kitab *mu'tabar*. *Kedua*, metode *ilhaqiy*, menyamakan hukum perkara yang belum disebutkan dalam teks (al-Quran dan al-Hadis) dengan perkara yang sudah dijelaskan dalam teks, sandaran hukumnya yang sudah termaktub dalam kitab-kitab *mu'tabar*. *Ketiga*, metode *manhaji*, menyelesaikan masalah keagamaan yang ditempuh dalam *bahtsul masail* dengan mengikuti jalan pikiran dan kaidah-kaidah penetapan hukum yang telah disusun imam mazhab (Mahfudz, 2011).

Pengambilan fatwa NU dilakukan dengan cara Musyawarah Nasional (Munas) Alim Ulama yang mengundang ulama, kiai, baik pengurus NU, maupun tidak. Guna membahas masalah-masalah keagamaan terkait kehidupan umat dan bangsa. Yang terbagi tiga komisi, yaitu *waqi'iyah* (pembahasan masalah-masalah keagamaan aktual), *maudlu'iyah* (pembahasan masalah-masalah keagamaan tematik), dan *qanuniyyah* (pembahasan masalah-masalah keagamaan berkaitan dengan perundang-undangan). Perkembangan selanjutnya, fikih yang dirumuskan ulama ratusan tahun lalu, tidak cukup menjawab persoalan umat yang ada saat ini. Perkembangan sosial, politik dan kebudayaannya yang berbeda. Itu sebabnya, ulama NU juga menggunakan metode *istimbath*. Selain itu, metode ijtihad juga dilakukan ulama NU yakni *ijtihad jama'i* (*ijtihad* kolektif), dengan cara menggali dari teks asal/dasar atau *ijtihad ilhaq/qiyas* (Mahfudz, 2011).

Dengan merujuk ulama terdahulu dalam mengambil hukum, maka ulama NU berusaha melestarikan tradisi masa lalu. Sebagaimana pendapat Marzuki Wahid, pertimbangan ulama NU tidak merujuk al-Qur'an karena untuk menafsirkan sebuah ayat maka seorang *mujtahid*— orang yang menafsirkan ayat-ayat al-Qur'an—harus memahami al-Qur'an beserta ilmunya dengan sempurna (ilmu *nahwu*, *shorof*, *manthiq*, *tafsir*, *ushul al-hadis*, *qawaid*, *maqashid al-syari'ah*, *balaqhoh*, dan ilmu-ilmu lain yang terkait). Sebagaimana Imam al-Ghazali mensyaratkan beberapa ilmu yang harus dikuasai untuk menafsirkan ayat. Menyadari hal itu, maka ulama NU berpendapat bahwa keilmuan ulama terdahulu sudah sangat mumpuni keilmuannya, merujuk al-Qur'an untuk merumuskan hukum, ulama NU merasa lebih aman jika menafsirkan ayat al-Qur'an dilakukan dengan membaca hasil *ijtihad* ulama terdahulu—imam mazhab—yang sudah menjadi sumber hukum. Fatwa NU terbagi atas *waqi'iyah*, *maudlu'iyah*,

dan *qanuniyyah*. Fatwa-fatwa NU tentang aborsi, sunat perempuan itu termasuk *masail ad-Diniyyah al-Maudhu'iyah* atau pembahasan masalah-masalah keagamaan tematik, dasar hukumnya langsung merujuk pendapat ulama, tidak merujuk al-Qur'an.^{xvii}

Sedangkan MUI menggunakan tiga pendekatan dalam merumuskan fatwa yakni pendekatan *nash qoth'i* melalui pendekatan *qauli*, dan *manhaji*. Fatwa MUI berdasarkan al-Qur'an dan al-Hadist, bila tidak ditemukan jawabannya, maka akan dicari melalui pendapat para ulama terdahulu. Bila sudah jelas dalil hukumnya (*ma 'lum min al din bi al-dharurah*), maka akan diambil keputusan hukumnya.

Sunat Perempuan

Muhammadiyah memiliki beberapa narasi tentang sunat perempuan. Pertama, fatwa khitan perempuan yang telah dibukukan dalam Fatwa-fatwa Tarjih, Tanya Jawab Agama 2 tahun 1991. Fatwa diawali dengan penjelasan definisi sunat perempuan menurut Organisasi Kesehatan Dunia (WHO), praktik yang dilakukan di Afrika, dan dampak jangka panjang dan pendek bagi perempuan yang disunat. Ayat al-Qur'an yang umumnya dijadikan rujukan surat an-Nisaa[4]:125 tentang mengikuti ajaran Nabi Ibrahim serta hadist yang biasa dijadikan dasar hukum yakni hadist riwayat Ibnu Majah dari 'Aisyah dan Ibnu Amr, apabila bertemu dua kelamin yang dikhitankan maka wajiblah mandi. Hadist ini dianalisis bukan sebagai ketetapan hukum. QS. An-Nisaa[4]:125 disandingkan dengan dengan hadist sebagaimana Ibrahim a.s melakukan sunat jika mau masuk Islam dan hadist yang menyebutkan sunat bagi perempuan *makrumah* dan wajib bagi laki-laki. Hadist tersebut dinilai sebagai perintah yang tidak tegas. Setelah menimbang bahwa perintah dalam hadist yang tidak jelas, sunat bukan kewajiban perempuan dan bukan pula indikator seseorang sebagai Islam atau bukan Islam, serta dampak negative perempuan yang sunat, maka fatwa memutuskan agar perempuan tidak disunat.

Kedua, analisa yang berasal dari Materi Fikih Perempuan Musyawarah Nasional Tarjih ke-27 tahun 2010 di Malang-Jawa Timur. Sumber hukum yang dirujuk tidak jauh berbeda dengan rujukan sebagaimana fatwa tahun 1991. Ayat-ayat tersebut adalah QS. an-Nisaa[4]:125, QS. an-Nahl[1]:123 dan QS. an-Nisa' ayat 125. Hadist yang dirujuk hadist riwayat Bukhari-Muslim yakni Nabi Ibrahim a.s. berkhitan ketika berumur 80 tahun dengan kapak; agama Islam yang dibawa Nabi Muhammad SAW adalah agama yang mengikuti agama Ibrahim yang mensyariatkan khitan, Nabi Muhammad SAW dikhitan pada usia tujuh hari [Ibnu Qayyim Al-Jauziyyah]; riwayat Abu Hurairah, diperintahkan berkhitan kalau masuk Islam, 'dari Abu Hurairah ra., Nabi Muhammad SAW bersabda: fitrah itu ada lima, yaitu khitan, mencukur bulu kemaluan, memotong kumis, memotong kuku dan mencabuti bulu ketiak' [HR al-Bukhari dan Muslim]; 'apabila bertemu dua kelamin yang dikhitankan maka wajiblah mandi' [Ibnu Majah dari Aisyah dan Ibnu Amr]; hadist Abu Dawud dari Ummu Athiyah bahwasanya seorang perempuan akan berkhitan di Madinah. Maka Nabi SAW berkata: 'Janganlah berlebihan, karena lebih nikmat (ketika berhubungan seksual) dan lebih dicintai oleh suami' [HR Abu Dawud dan al-Baihaqi]; riwayat lain Nabi SAW bersabda 'potonglah bagian ujungnya saja dan jangan berlebihan karena bagian itu membuat wajah berseri dan bagian (kenikmatan) suami'. Secara jujur, Abu Dawud yang meriwayatkan hadist menyatakan hadist ini lemah karena ada seorang perawi yang tidak diketahui asal-usulnya (*majhul*). Demikian pula pendapat Ibnu Munzhir, sebagaimana dikutip oleh Ibnu Hajar al-Asqalani, 'tidak ada satu pun hadis yang bisa dijadikan landasan hukum untuk persoalan khitan, dan tidak ada satu pun *sanadnya* yang bisa diikuti'. Maka, ulama berbeda pendapat bahwa ketidaktegasan perintah khitan perempuan, termasuk kalangan mazhab Syafi'i yang

berpendapat bahwa khitan perempuan tidak wajib. Apalagi menyebabkan kerugian pada perempuan.

Ketiga, pendapat dari Muhamad Rofiq Muzakkir (2014, 103-127). Sebelum mengambil kesimpulan hukum sunat perempuan, Muzakkir mengawali dengan sejarah singkat, definisi dan klasifikasi sunat perempuan menurut WHO, pandangan para ulama, dalil-dalil, dan analisa pengharaman. Pendapat ulama yang dipilih adalah pendapat empat imam mazhab, Imam Nawawi, Syaikh bin Baz seorang mufti Kerajaan Arab yang berpendapat *sunah*, Syaikh Jadual Haq pimpinan Lembaga Farwa Mesir juga mengatakan sunat perempuan adalah *sunah*, Yusuf Qaradawi yang mengatakan *mubah*, Salim al-Awwa cendekiawan Universitas al-Azhar mengatakan sunat perempuan adalah perbuatan yang mengandung *mudharat*, juga Mahmud Syaltut seorang syaikh al-Azhar mengatakan tidak ada kaitan antara Islam, moralitas, dan kesehatan perempuan. Sedangkan pembahasan ayat dan hadist sama dengan ayat dan hadist yang digunakan Muhammadiyah di atas. Di akhir, Muzakkir memberikan kesimpulan bahwa konsep usul fikih *saddu al-dzariah* (muntup jalan yang dapat menyebabkan terjadinya perbuatan yang jelas diharamkan) dapat dijadikan sandaran bagi larangan sunat perempuan. Karena, tidak ada dalil yang menghalangi untuk melarang sunat perempuan, tidak ada manfaat medis pelaksanaan sunat perempuan, sunat perempuan menjadi pintu terbukanya *kemudharatan*, serta sunat perempuan bukan perintah Islam, tetapi tradisi (*'urf*) yang berkembang dalam masyarakat. Berdasarkan tiga fatwa dan pendapat di atas, terdapat keselarasan. Semuanya berujung pada kesepakatan bahwa sunat perempuan harus dihindari karena bukan perintah agama dan justru bila dilakukan akan merugikan perempuan. Selain Putusan Tarjih, tokoh Muhammadiyah di Majelis Tarjih, Wawan Gunawan, juga mengatakan bahwa sunat perempuan melanggar hak hidup perempuan (*hifd nafs*). Padahal perempuan punya hak terbebas dari sakit yang ditimbulkan karena praktik sunat.^{xviii}

NU menggunakan lima hadist untuk sunat perempuan yakni 'khitan itu hukumnya sunnah bagi para lelaki dan kemuliaan bagi para perempuan' (HR. Ahmad dari Usamah, Thabrani dalam al-Mu'jam al-Kabir dari Syaddad bin Aus dan Ibn Abbas); 'fithrah itu ada lima, atau lima macam yang termasuk fithrah yakni khitan, mencukur rambut yang tumbuh di sekitar kemaluan, mencabut bulu ketiak, memotong kuku, dan mencukur kumis' (Bukhari, Muslim, Abu Daud, al-Darimi, Malik, dan Ahmad); 'dari Ummu Athiyah al-Anshariyah, sungguh di Madinah ada seorang perempuan yang akan dikhitan, Nabi SAW bersabda: 'jangan engkau habiskan dalam memotongnya, sebab sungguh hal itu lebih menguntungkan perempuan dan lebih menyenangkan suami'. Hadist riwayat Abu Daud ini *dlaif* (lemah) sebagaimana dikatakan Abu Dawud, tetapi memiliki dua *syahid* yaitu hadist Anas dan hadist Ummi Ayman yang diriwayatkan Abu As-Syaikh dalam kitab Aqiqah, dan hadist Ad-Dlahhak ibn Qays yang diriwayatkan al-Baihaqi sebagaimana dikatakan Al-Adzim Abady pengarang Aunul Ma'bud; dan hadist terakhir tentang 'berkhitanlah perempuan dan jangan engkau potong habis. Sebab khitan itu lebih menyegarkan muka dan lebih membuat nikmat bagi suami—saat bersetubuh'—HR. Ath-Thabarani dan Al-Hakim dari Adl-Dlahhak ibn Qais RA. Hadist tersebut *shahih* menurut Imam Suyuthi. Terakhir, hadist yang menjelaskan bahwa Nabi Ibrahim a.s dikhitan pada saat berusia delapan puluh tahun, dengan tukang kayu'.

Adapun pendapat ulama yang dipilih adalah pendapat Fath al-Bari Syarh Shahih al-Bukhari mengatakan perbedaan pendapat para ulama tentang khitan perempuan. Pendapat Imam Syafi'i, khitan wajib hukumnya bagi laki-laki dan perempuan. Khitan al-Inats yang mengatakan khitan laki-laki dan perempuan perempuan bermanfaat untuk mengurangi syahwat atau libido, mencegah bau tidak sedap dari tumpukan kotoran dibalik *qulfa*, menghambat serangan radang saluran sperma. Hikmahnya melestarikan *syari'at* Allah dan

Rasul, kesucian, kebersihan, menjaga budi pekerti, menstabilkan *syahwat*, mengganti tradisi adat istiadat yang berbahaya dan tidak sesuai syariat, meninggikan *syi'ar* ibadah bukan adat, serta menjaga integritas masyarakat agar tidak berlaku khitan secara mutlak. Lalu, pendapat Al-Majmu' Syarh al-Muhadzdzab bahwa khitan perempuan adalah tempat masuknya penis. Kulit tipis yang menutupi saluran kencing itulah yang sebagiannya dipotong saat khitan perempuan. Serta pendapat Bahr al-Ra'iq Syarh Kanz al-Daqa'iq bahwa khitan perempuan yakni tempat pemotongan kulitnya yang seperti jengger ayam jantan di bagian atas vagina. Bagian inilah yang dikhitan. Tujuannya agar libido perempuan tidak tinggi.

Selanjutnya fatwa NU menyebutkan makna '*sunah*' dan '*makrumah*' dalam setiap hadist dan pendapat ulama yang dipilih maksudnya laki-laki lebih dianjurkan berkhitan dibandingkan perempuan. Sehingga bisa diartikan laki-laki '*sunah*' berkhitan, perempuan *mubah*, atau laki-laki *wajib*, perempuan *sunnah*. Pendapat yang mengatakan khitan perempuan dilarang sebetulnya tidak memiliki dalil syar'i, kecuali hanya sekedar melihat bahwa khitan perempuan adalah menyakitkan korban (perempuan), sementara hadist yang menjelaskan khitan perempuan (hadist Abui Dawud) tidak menunjukkan *taklif* disamping juga kesahihannya diragukan. Padahal ada *qaidah ushul* yang menyatakan bahwa '*adam al-dalil laisa bidalilin*' (tidak adanya dalil bukan merupakan suatu dalil). Khitan pada laki-laki dianjurkan diumumkan, sedangkan tidak pada perempuan. Syarh Zad al-Mustaqni mengatakan khitan disyari'ahkan agar menyucikan laki-laki seperti halnya agar meredam syahwat perempuan. Sebab, bila seorang perempuan dibiarkan tanpa khitan maka syahwatnya akan bergejolak. Khitan diperoleh '*iffah* (mampu menjaga diri dari keharaman).

Sebenarnya upaya untuk mempengaruhi fatwa agar berpihak pada perempuan dan menghapuskan sunat perempuan telah diupayakan Fatayat Nahdlatul Ulama saat pembahasan fatwa sunat perempuan di Makassar, 29-31 Januari 2010. Menurut Maria Ulfa Anshor, yang ketika itu menjadi Ketua Fatayat NU, mengatakan bahwa 'Fatayat yang mengusulkan naskah. Usulan tersebut dibahas dalam Munas Ulama namun hasil keputusannya tidak sesuai dengan rumusan Fatayat. Hal ini dipengaruhi soal perspektif/cara pandang peserta Munas yang bias terhadap teks. Sedangkan Fatayat membahas sunat perempuan tidak hanya teks. Tetapi juga konteks'.^{xix} Tokoh ulama NU, Husein Muhammad yang memiliki perspektif baik terhadap tubuh perempuan dan menolak sunat perempuan, telah menuliskan kajian terkait sunat perempuan (Muhammad, 2001), pendapatnya juga tidak dijadikan rujukan oleh peserta Munas NU dalam pembahasan Munas tersebut. Mahbub Maafi, tokoh NU yang setuju pelaksanaan sunat perempuan, mengatakan 'sunat perempuan di Indonesia berbeda dengan di Afrika. Para aktifis yang kebarat-baratan saja yang tidak setuju syiar Islam tentang sunat perempuan ini'.^{xx} Situasi ini menunjukkan bahwa NU masih sulit menerima input, walaupun input itu berasal dari internal NU sendiri, termasuk kajian dampak sunat bagi perempuan.

Selanjutnya fatwa MUI tentang sunat perempuan. MUI merujuk al-Qur'an dalam fatwanya yakni QS. An-Nisa' [4]:125, QS. An-Nahl [16]:123, QS. Ali Imran [3]:95, QS. Ali Imran [3]:31, QS. Ali Imran [3]:32. Hadist yang dipilih ada beberapa yakni pertama, 'Khitan merupakan sunnah (ketetapan rasul) bagi laki-laki dan makrumah (kemuliaan) bagi perempuan' (HR. Ahmad). Kedua, Abdullah ibn Umar bahwa Rasulullah saw bersabda: 'wahai perempuan-perempuan Anshor warnailah kuku kalian (dengan pacar dan sejenisnya) dan berkhifadhlah (berkhitanlah) kalian, tetapi janganlah berlebihan' (al-Syaukani). Ketiga, 'Apabila bertemu dua khitan maka wajiblah mandi, aku dan Rasulullah telah melakukannya, lalu kami mandi' (HR at-Turmudzi, Ibnu Majah dan Imam Ahmad dari 'Aisyah r.a.). Keempat, dari Ummu 'Athiyyah r.a diceritakan bahwa di Madinah ada seorang perempuan tukang sunat/khitan, lalu Rasulullah SAW bersabda kepada perempuan tersebut: 'Jangan berlebihan,

sebab yang demikian itu paling membahagiakan perempuan dan paling disukai lelaki (suaminya)'. Kelima, dari adh-Dhahhak bin Qais bahwa di Madinah ada seorang ahli khitan wanita yang bernama Ummu 'Athiyyah, Rasulullah SAW bersabda kepadanya: 'khifadllah (khitanilah) dan jangan berlebihan, sebab itu lebih menceriakan wajah dan lebih menguntungkan suami' (HR. at-Tabrani dari adh-Dhahhak). Keenam, lima perkara yang merupakan fitrah manusia: khitan, *al-Istihdad* (mencukur rambut pada sekitar kemaluan), mencukur bulu ketiak, menggunting kuku, dan memotong kumis (HR Jama'ah dari Abu Hurairah r.a.). Pendapat ulama (*qoul ulama*) yang rujuk MUI memberikan kesimpulan bahwa seluruh ulama sepakat bahwa khitan bagi perempuan merupakan hal yang disyari'atkan.

Fatwa MUI adalah pertama, status khitan perempuan adalah khitan bagi laki-laki dan perempuan adalah *fitrah* dan *syiar* Islam. Khitan perempuan adalah kemuliaan dan pelaksanaannya merupakan bentuk ibadah. Kedua, hukum tentang larangan khitan perempuan. Melarang khitan perempuan bertentangan dengan hukum syariat karena khitan baik bagi laki-laki dan perempuan adalah *fitrah* dan *syiar* Islam. Ketiga, batasan atau prosedur khitan perempuan. Dalam melaksanakan khitan perempuan, hal-hal berikut ini perlu diperhatikan adalah khitan perempuan hanya boleh dilakukan dengan memotong kulup, dan memperluas wilayah yang dikhitan seperti pemotongan (insisi atau eksisi) atau melukai klitoris yang mengarah pada mutilasi berlebihan adalah haram.

Fatwa-fatwa Muhammadiyah, NU, dan MUI pada isu sunat perempuan memang banyak kesamaan ketika mengutip ayat al-Qur'an, al-Hadist, dan pendapat ulama yang sama. Rujukan tiga organisasi sebagaimana di bawah ini.

R ujukan Organis asi	Al- Qu r'a n	A l- h a d is t	Penda pat ulama	Ist in bat
Muham madiyah	Ya	Ya	Ya	Ya
NU	Tida k	Ya	Ya	Tidak
MUI	Ya	Ya	Ya	Tidak

Ayat al-Qur'an yang sama antara Muhammadiyah dan MUI adalah QS. an-Nisa' [4]:125 dan QS. An-Nahl [16]:123. QS. An-Nisa [4]:125 yakni:

وَمِنْ أَحْسَنِ دِينِنَا أَنْ أَسْلَمَ وَجْهَهُ لِلَّهِ وَهُوَ مُحْسِنٌ وَاتَّبَعَ مِلَّةَ إِبْرَاهِيمَ حَنِيفًا ۚ وَاتَّخَذَ اللَّهُ إِبْرَاهِيمَ خَلِيلًا

Dan siapakah yang lebih baik agamanya dari pada orang yang ikhlas menyerahkan dirinya kepada Allah, sedang diapun mengerjakan kebaikan, dan ia mengikuti agama Ibrahim yang lurus? Dan Allah mengambil Ibrahim menjadi kesayangan-Nya(QS. An-Nahl [16]:123).

QS. an-Nahl [16]:123 yakni:

ثُمَّ أَوْحَيْنَا إِلَيْكَ أَنْ اتَّبِعْ مِلَّةَ إِبْرَاهِيمَ حَنِيفًا ۚ وَمَا كَانَ مِنَ الْمُشْرِكِ

Kemudian Kami wahyukan kepadamu (Muhammad): "Ikutilah agama Ibrahim seorang yang hanif" dan bukanlah dia termasuk orang-orang yang mempersekutukan Tuhan (QS. An-Nisa [4]:125).

Kedua ayat di atas, sama-sama dimaknai sebagai perintah mengikuti ajaran Ibrahim, yang tidak hanya tentang keesaan Allah SWT dan berdakwah menyampaikan ajarannya. Muhammadiyah

memahaminya sebagai perintah bersunat bagi laki-laki. MUI menafsirkannya perintah sunat bagi laki-laki dan perempuan, sebagai *syiar* agama Islam.

Sedangkan hadits yang dipilih, ketiga organisasi ini ada yang sama, ada yang berbeda, sebagaimana table berikut:

O r g a n i s a s i	Muhammadiyah	NU	MUI
Hadist			
Nabi Ibrahim a.s disunat usia 80 tahun	Ya	Ya	Tidak
Lima fitrah, termasuk sunat	Ya	Ya	Ya
Ummu 'Athiyyah, perempuan berkhitan di Madinah, pesan Nabi jangan berlebihan	Ya	Ya	Ya
Ummu 'Athiyyah, khitan perempuan mencerahkan wajah, menyenangkan suami	Ya	Ya	Ya
Khitan sunah laki-laki, kemuliaan perempuan	Tidak	Ya	Ya
Bertemunya dua kelamin, wajib mandi	Ya	Tidak	Ya

Hadist-hadist yang sama dipilih tiga organisasi ini memunculkan interpretasi yang berbeda. Hadist Ummu 'Athiyyah misalnya, dimakna MUI dan NU perempuan tetap harus disunat, walaupun jangan berlebihan. NU menambahkan, dengan disunat, libido perempuan tidak akan liar dan hanya untuk suaminya. Sedangkan Muhammadiyah memahami pesan Nabi SAW kepada tukang sunat di Madinah sebuah kiasan/bahasa halus untuk melarang, jangan melakukan sunat perempuan. Kalimat 'jangan berlebihan, karena bagian itu (klitoris) justru menyenangkan suami ketika berhubungan seksual suami isteri' difahami justru praktik sunat jangan dilakukan pada perempuan karena kenikmatan hubungan seksual ada pada klitoris perempuan. Hadist lima fitrah, Muhammadiyah memahami ini kewajiban bagi laki-laki, sedangkan MUI dan NU ini juga perintah bagi perempuan tidak hanya laki-laki. Adapun hadist bertemunya dua kelamin (yang disunat), maka wajib mandi. Muhammadiyah memahami bahwa maksudnya dua kelamin yang berbeda tanpa membahas sunat, karena ini perintah bersuci setelah berhubungan seksual suami isteri. Sedangkan MUI memahaminya dua kelamin berbeda (penis, vagina) yang keduanya tetap disunat.

Putusan akhir dari fatwa ketiga organisasi yakni Muhammadiyah berpendapat bahwa sunat perempuan bukan perintah syiar Islam, dampak yang sangat merugikan tubuh perempuan, maka

tidak perlu dilakukan, klitoris adalah cara untuk menikmati hubungan seksual suami isteri, dan seorang isteri juga berhak menikmatinya. NU justru sebaliknya, berpendapat bahwa sunat adalah perintah agama dan wujud keislaman seseorang. Sunat perempuan juga cara untuk mengekang libido, mengendalikan nafsu seseorang agar tidak terlalu liar. MUI menggarisbawahi sunat perempuan bagian syiar Islam yang dilakukan laki-laki dan perempuan. Pelaksanaan sunat perempuan ada aturannya agar tidak berlebihan.

Kesimpulan

Ragam mazhab dan pemikiran ulama mengajarkan pada kita tentang landasan atau metode ijtihad penggalan hukum yang dilakukan para ulama masa lalu. Disadari, berbedanya ulama dalam memahami ayat-ayat al-Qur'an dan hadist menghasilkan pemikiran dan hasil *ijtihad* yang berbeda pula walaupun mengambil sumber hukum yang sama. Perbedaan ini dapat dianggap sebagai rahmat dan ragam khazanah pemikiran hukum Islam (Amrulloh, 2019).

Pertama rujukan hukum. Muhammadiyah konsisten menyebutkan sumber hukumnya al-Qur'an dan hadist sebagai rujukan utama untuk fatwa aborsi, sunat perempuan, maupun hubungan seksual suami-isteri. MUI juga demikian untuk fatwa aborsi dan sunat perempuan.

NU, pada fatwa aborsi tidak menggunakan al-Qur'an dan hadist, yakni pendapat ulama. Fatwa sunat perempuan menggunakan hadist dan pendapat ulama. Fatwa hubungan seksual suami- isteri, yakni oral seks menggunakan al-Qur'an, hadist, dan pendapat ulama. Dan fatwa isteri minta duluan diawali dengan hadist dan pendapat ulama.

Kedua, posisi perempuan dalam fatwa. Ketiga isu ini menunjukkan bahwa fatwa-fatwa yang dihasilkan Muhammadiyah meletakkan pengalaman perempuan sebagai sumber dasar fatwa, dan ini berbeda dengan NU dan MUI. Putusan keagamaan atau fatwa yang memposisikan perempuan sebagai subyek dan bukan obyek adalah tujuan tertinggi dari *maqasid syariah*. Pengalaman perempuan menyebutkan bahwa perempuan korban perkosaan sangat menderita (luka fisik, trauma psikis yang lama, dan kekerasan seksual) apalagi jika korban hamil. Perempuan yang disunat pun juga menderita. Dampaknya beragam, tidak bisa menikmati hubungan seksual bahkan kematian. Termasuk hubungan seksual dengan cara memaksa menimbulkan rasa sakit. Bila pengalaman perempuan dijadikan sumber hukum, maka fatwa sejatinya mempertimbangkan hal ini. Dari ketiga fatwa organisasi keagamaan tersebut, hanya fatwa Muhammadiyah yang menjadikan perempuan sebagai sumber hukum. Perempuan diposisikan sebagai subyek. NU, bahkan perempuan korban perkosaan pun dilarang melakukan aborsi. NU, walaupun oral seks dibolehkan, namun hak paling dasar untuk bisa menikmati hubungan seksual telah hilang dengan praktik sunat perempuan. Adapun MUI, pada fatwa aborsi mengalami perubahan signifikan. Yang awalnya menolak, kini membolehkan dengan berbagai pertimbangan.

Ketiga, *hifdh an-nafs*, menjaga kehidupan, termasuk hak untuk sehat dan terbebas dari rasa sakit dan hal-hal yang mengancam hidup perempuan harus diutamakan. Perempuan hamil karena zina dengan perkosaan adalah dua hal yang berbeda. Perkosaan ada unsur paksaan, seperti pencurian, mengambil paksa bahkan bisa disertai pembunuhan. Sayyid Qutub menyebut pencurian atau perampokan dengan penyerangan sebagai *hirabah*. Perkosaan dapat diqiyaskan atau diumpamakan sebagai *hirabah* (Muthmainnah, 2016). Perempuan korban perkosaan harus diselamatkan, sebagaimana kaidah fikih '*al-akhdz bi akhaff ad-dhararain* (mengambil yang buruk daripada yang lebih buruk) dan *idza ta' aradha al-mafsadatan ru'iy a 'zhamuhuma dhararan* (jika berhadapan dua bahaya, maka yang harus dijaga adalah yang paling buruk). Sehingga aborsi bagi perempuan korban perkosaan bisa dilakukan untuk tujuan menyelamatkan *hifd an-nafs* (Muthmainnah, 2013 dan Muhammad, 2001).

Keempat, kompatibel pada zaman. Sebagaimana definisi internasional tentang sunat perempuan dan cara melakukannya, maka sunat perempuan masih terjadi diberbagai provinsi (Banten, Gorontalo, Makassar, Padang Sidempuan, Madura, Padang, Padang Pariaman, Serang, Kutai Kartanegara, Sumenep, Bone, Gorontalo, dan Bandung), temuan Council Population, dengan alat yang digunakan tidak steril (pisau, gunting, sembilu (bambu), silet, jarum, persen pinset, kuku atau jari penyunat, koin, dan kunyit), caranya pun beragam (pemotongan klitoris, yaitu insisi dan eksisi, mengerik dan menggores klitoris dengan menggunakan bambu atau silet). Praktik ini, terjadi berdasarkan kolaborasi budaya dan agama. Budaya dan juga tafsir agama menganggap, perempuan yang tidak disunat akan menjadi liar, binal. Agama, melalui lisan beberapa ulama mengatakan keislaman seseorang harus dengan sunat. Pemerintah pada posisi bersikap lunak, sekalipun sudah sering mendapat catatan tingkat internasional agar praktik ini dihentikan hingga menelan korban bayi perempuan. Nampaknya pemerintah tidak bisa bersikap, desakan ulama-ulama tertentu (termasuk fatwa MUI dan NU) agar sunat tetap dilaksanakan, sehingga pemerintah mencoba menjembatani dengan menyusun kebijakan tata cara sunat perempuan yang tidak memotong habis klitoris tetapi masih bisa menjalankan 'perintah agama' yang diyakini ulama tertentu

ataupun tradisi. Hingga kini, kebijakan nasional masih menggunakan kebijakan 2014 dan belum ada perubahan.

Sunat perempuan sangat dipengaruhi faktor budaya. Dalil hadist terkait sunah sangatlah lemah. Ayat al-Qur'an yang memerintahkan mengikuti Nabi Ibrahim as adalah mengikuti nilai-nilai ketauhidan, mengesakan Allah, perintah melakukan ibadah haji, dan berdakwah dengan cara yang lembut dan argumen rasional (Yusuf Qaradawi, Al-Thabari, dan Fakhr al-Din al-Razi). Sehingga bila sunat perempuan tetap dilakukan atas dasar dalil di atas, itu adalah alasan yang mengada-ada (*takalluf*) dan memaksakan karena dampaknya merugikan perempuan. Adapun alasan sunat perempuan tetap dilakukan agar perempuan tidak liar, seksualitas perempuan hanya milik suami, dan agar tidak menjadi perempuan penghibur adalah upaya mengekang dan membatasi seksualitas perempuan. Selain bias gender, alasan ini sangat diskriminatif dan melanggar hak-hak seksualitas dan kesehatan reproduksi perempuan. Itu seperti memotong tangan bayi laki-laki dengan alasan khawatir mereka akan menjadi pencuri bila besar nanti. Padahal kesempatan menikmati hubungan seksual yang setara sebagaimana QS Al-Baqarah[2]:187, seharusnya dimulai dengan melarang sunat perempuan. Kiranya tepat bila sejak 1959, mufti Mesir, Syekh Ali Gom'ah, mengharamkan. Demikian pula Mufti besar Al-Azhar, Muhammad Sayyid Thanthowi, mendukung fatwa (Muthmainnah, 2011 dan 2018). Selain itu, *asbab al-wurud* atau sebab turunnya hadist bila dianalisa dari aspek sosio-sejarah, larangan Nabi SAW pada para tukang sunat di Madinah, agar mereka berhenti melakukan sunat perempuan karena hal ini menyakiti perempuan (Suryadilaga, 2004).

Selain itu, hukum aborsi yang sudah dikeluarkan organisasi keagamaan memunculkan kajian dari perspektif fikih dari para tokoh. Misalnya analisa yang ditulis gabungan para ulama MUI dan dosen Fakultas Syari'ah dan Hukum dari berbagai Universitas Islam Negeri di Indonesia (Jurnalis Udin, 2007). Putusan yang dihasilkan adalah aborsi secara umum adalah haram kecuali karena penyakit berbahaya yang diderita ibu yang sedang hamil, perkosaan, incest, perempuan atau suaminya menderita skizofren atau calon bayi yang dikandung catat genetik yang sulit disembuhkan maka aborsi boleh dilakukan dengan maksimal usia 40 hari kehamilan. Keputusan aborsi diambil oleh tenaga medis, ulama, dan keluarga serta dilakukan oleh tenaga medis terlatih. Aborsi yang disebabkan karena hubungan seksual diluar nikah (zina) diharamkan. Terhadap putusan ini ada dua hal yang menarik. Model kajian ini masih normative, tidak berperspektif kebutuhan perempuan korban dan tidak kritis terhadap kebijakan (Muthmainnah, 2014). Pertama, keputusan aborsi bukan ditentukan oleh perempuan, tetapi orang lain. Kedua, perempuan korban perkosaan atau incest yang mengetahui kehamilan sudah di atas 40 hari dilarang aborsi. Pada perempuan korban perkosaan dan incest yang terlambat tahu bahwa ia hamil menyebabkan terhalangi aborsi. Sehingga tidak berkontribusi pada perlindungan perempuan.

Kelima, akses mempengaruhi kebijakan organisasi. Dari putusan dan fatwa tiga organisasi keagamaan di atas, Muhammadiyah dapat membuktikan bahwa dalam penyusunan keputusan selain Majelis Tarjih menerima input dari berbagai pihak, orang-orang di dalam majelis adalah orang-orang yang memiliki perspektif hak asasi manusia dan berperspektif perempuan yang baik. Berbeda dengan Nahdlatul Ulama, sekalipun mendapatkan input dari pihak di luar Bahsul Masail atau peserta Munas tetapi input tersebut tidak diambil sebagai bahan keputusan. Demikian pula MUI. Pada fatwa aborsi relative baik karena berperspektif perempuan ketimbang fatwa sunat perempuan. Pada akhirnya, ragam fatwa ini memudahkan umat untuk memilih fatwa yang sesuai dan dibutuhkan umat. Termasuk aborsi yang sudah disetujui oleh pemerintah.

Reference

- Adrina, et al. 1998. 'Hak-hak Reproduksi Perempuan yang Terpasung', Jakarta: Pustaka Sinar Harapan dan Ford Foundation, pp 2-6.
- Amrulloh, Moh. Asyiq. et al. 2019. 'Fiqh dan Ushul Fiqh'. Jakarta: Prenada Media Group, pp. 292-293.
- Anwar, Syamsul. 1439 H/2018 M. 'Manhaj Tarjih Muhammadiyah'. Yogyakarta: Panitia Musyawarah Nasional Tarjih XXX.
- Auda, Jasser. 2007. 'Maqasid al-Shariah as Philosophy of Islamic Law'. London: the International Institute of Islamic Thought, pp 21-23.
- Burhani, Ahmad Najib. 'Muhammadiyah' in Oxford Islamic Studies Online, Oxford Islamic Studies Online, link <http://www.oxfordislamicstudies.com/article/opr/t343/e0296>, accessed 18 November 2019.
- Dzuhayatin, Siti Ruhaini. 2015. 'Rezim Gender di Muhammadiyah'. Yogyakarta: Mizan, hal.166-194.
- El-Saadawi. Nawal. 2001. 'Perempuan dalam Budaya Patriarki'. (terj) Zuhilmiyasri. Yogyakarta: Pustaka Pelajar.
- Engineer, Asghar Ali. 2003, 'The Qur'an Women and Modern Society', (tran). Yogyakarta: LKis, pp 7.
- Fakih, Mansour. 1996. 'Analisis Gender dan Transformasi Sosial'. Yogyakarta: Pustaka Pelajar.
- Fanani, Ahmad Fuad. 'Reimagining Muhammadiyah; Islam Berkemajuan dalam Pemikiran dan Gerakan', (Yogyakarta: Suara Muhammadiyah, 2018), cet-1.
- Hadad, Tini. Dkk. 2001. 'Perempuan dan Hak Kesehatan Reproduksi, Seri Perempuan Mengenal Dirinya'. Jakarta: Yayasan Lembaga Konsumen Indonesia, Forum Kesehatan Perempuan, dan Ford Foundation.
- Hukum Online. 2014. 'Menteri Agama, PP Aborsi sudah sesuai dengan fatwa MUI', link <https://www.hukumonline.com/berita/baca/lt53ebf97b67ebb/menag--pp-aborsi- sudah- sesuai-dengan-fatwa-mui/>.
- Instruksi Presiden Nomor 1 Tahun 1991 tentang Kompilasi Hukum Islam (KHI).
- Irianto, Sulistyowati. 2003. 'Kawin Kontrak dalam Perspektif Pluralisme Hukum dan Perempuan' dalam *Ketika Aurat Dikuasai Surat*, Srintil Vol. 4. Jakarta: Desantara.
- Ka'ah, Rifyal. 1999. 'Hukum Islam di Indonesia'. Jakarta: Universitas Yarsi, pp. 51-59. Kitab Undang-undang Hukum Pidana (KUHP).
- Koran Jakarta. 2019. Kemenkes Sediakan Layanan Aborsi Aman. Link <http://www.koran-jakarta.com/kemenkes-sediakan-layanan-aborsi-aman/lihat> juga <https://www.merdeka.com/peristiwa/menkes-siapkan-layanan-aborsi-aman-sesuai-uu-kemen-pppa-nilai-pelanggaran-hak-anak.html>.
- Kode Etik Kedokteran Indonesia Tahun 2012
- Mahfudh, Sahal. 2004. 'Nuansa Fikih Sosial'. Yogyakarta: LKis
- Majelis Tarjih dan Tajdid Pimpinan Pusat Muhammadiyah, Buku Tanya Jawab Agama Jilid 2, Cet-6, pp. 48-50.
- , Draft Materi Fikih Perempuan Musyawarah Nasional Tarjih ke-27 Tahun 2010 di Malang, Jawa Timur.

- , Keputusan Muktamar Tarjih XXII tentang Aborsi tahun 1989 dan Fatwa tentang 'Nifas bagi Ibu, Perawatan Jenazah, Pemberian Nama dan Akikah bagi Janin pasca Abortus' tahun 2010.
- Majelis Ulama Indonesia. 2005. 'Himpunan Fatwa MUI'.
- --. t.t. 'Himpunan Keputusan dan Fatwa Majelis Ulama Indonesia'. Jakarta
- , Fatwa Musyawarah Nasional VI Majelis Ulama Indonesia Nomor 1/MUNAS VI/MUI/2000 tentang Aborsi (I), berlangsung pada tanggal 23-27 Rabi'ul Akhir 1421 H./25-29 Juli 2000 M. Lihat juga <http://mui.or.id/wp-content/uploads/files/fatwa/25.-Aborsi-1.pdf>, diakses 01 Desember 2019.
- , Pendapat Komisi Fatwa tentang Hukum Pelarangan Khitan terhadap Perempuan, ditetapkan di Jakarta dalam rapat tanggal 9 Desember 2006/18 Dzulqo'dah 1427 H, tanggal 3 Mei 2008, dan tanggal 7 Mei 2008, lihat <http://mui.or.id/wp-content/uploads/files/fatwa/29.-Hukum-Pelarangan-Khitan-Terhadap-Perempuan.pdf>, diakses 01 Desember 2019.
- , Fatwa Nomor 4 Tahun 2005 tentang Aborsi (II), ditetapkan di Jakarta, pada 10 Rabi'ul Akhir 1426 H/19 Mei 2005 dan 12 Rabi'ul Akhir 1426 H/21 Mei 2005.
- Mernissi, Fatimah. 1997. 'Beyond The Veil, Male-Female Dynamics in Modern Muslim Society', (tran). Surabaya: Alifkr, hal. 288-289.
- Mohamad, Kartono. (ed). 1998. 'Kontradiksi dalam Kesehatan Reproduksi'. Jakarta: Pustaka Sinar Harapan dan Ford Foundation.
- Muhammad, Husein. 2001. 'Fikih Perempuan'. Yogyakarta: LKiS dan Ford Foundation. Cet- 1, pp. 164-166.
- Musyarofah, Ristiani. 2003. 'Khitan Perempuan antara Tradisi dan Ajaran Agama'. Yogyakarta: PSKK UGM dan Ford Foundation.
- Muthmainnah, Yulianti. 2019. 'Aisyiyah dan Ijtihad Berkemajuan untuk Hak-Hak Perempuan' dalam *Jurnal Maarif Vol. 14 No. 2*. Jakarta: Maarif Institute.
- , 2018. 'Menjemput Fatwa yang Berkeadilan untuk Perempuan; Putusan Majelis Tarjih Muhammadiyah tentang Khitan Perempuan', dalam Fahmi Syahirul dan Syafiq asyim (editor), *Moderasi Fatwa; Diskursus, Teori, dan Praktik*. Jakarta: ICIP.
- , 'Human Rights in Indonesian Foreign Policy, Study Case of LGBT', Thesis at Paramadina University, February, 2015.
- , 2014. 'Membincangkan Perempuan, Aborsi dan Agama'. Suarakita.org, 9 October.
- , 2011. 'Larangan Khitan Perempuan', Kompas, 29 Juli.
- , Mumtazah, Afwah. 2004. 'Menimbang Penghentian Kehamilan, Perspektif Islam dan Hukum Positif'. Edisi 2/21. Jakarta: Rahima.
- , 2005. 'Eksistensi Hak-hak Kesehatan Reproduksi Perempuan: antara Hukum Islam dan Hukum Positif', Thesis at State Islamic University Syarif Hidayatullah Jakarta, February, 2005.
- Muzakki, Muhammad Rofiq. *Meninjau Ulang Khitan Perempuan*, dalam 'Problematika Fikih Perempuan', (Yogyakarta: Suara Muhammadiyah, 2017), cet-2, pp 103-127.
- Nahdlatul Ulama, 2019. 'Khitan Perempuan' dalam *Solusi Problematika Aktual Hukum Islam Keputusan Muktamar, Munas, dan Kombes Nahdlatul Ulama Tahun 1926-2015M*, Keputusan Komisi Bahtsul Masail ad-Diniyyah al-Maudhu'iyah Muktamar ke-32 Nahdlatul Ulama di Asrama Haji Sudiang Makassar, 06-13 Rabiul Akhir 1431 H/22-29 Maret 2010. Surabaya: Khalista dan Lembaga Ta'lim Wan Nasyr Pengurus Besar Nahdlatul Ulama. Cet-2, pp 1050-1064.

-----, Fatwa Aborsi, Musyawarah Nasional Alim Ulama dan Konferensi Besar Nahdlatul Ulama di kantor PBNU Jakarta, 1-2 November 2014.

Peraturan Pemerintah Nomor 61 Tahun 2014 tentang Kesehatan Reproduksi.

Peraturan Menteri Kesehatan Nomor 1636/Menkes/Per/XII/2010 tentang Sunat Perempuan.

Peraturan Menteri Kesehatan Nomor 6 Tahun 2014 tentang Pencabutan Permenkes Nomor 1636.

Pimpinan Pusat Aisyiyah. 2017 Tuntunan Menuju Keluarga Sakinah. Yogyakarta: Suara Muhammadiyah. Cet-2. pp. 103-107.

Sumarni, dkk. 2005. 'Sunat Perempuan di Bawah Bayang-bayang Tradisi'. Yogyakarta: PSKK UGM dan Ford Foundation.

Surat Edaran Nomor: HK 00.07.1.3.1047a tentang Larangan Medikalisasi Sunat Perempuan bagi Petugas Kesehatan.

Suryadilaga, M. Alfatih. 2004. 'Khitan Perempuan dalam Perspektif Hadist' dalam Sodik. Mochamad. (ed). *Telaah Ulang Wacana Seksualitas*. Yogyakarta: PSW IAIN Sunan Kalijaga, Depag, dan McGill-IISEP-CIDA. Cet-1, pp. 25, 36-37.

Syarifuddin, Amir. 2001. 'Ushul Fiqh' Jilid 2. Jakarta: Logos Wacana Ilmu, pp. 297.

Tempo.co, Menteri Agama Bekukan Draft Kompilasi Hukum Islam, Selasa/26 Oktober 2014, link <https://nasional.tempo.co/read/49923/menteri-agama-bekukan-draft-kompilasi-hukum-islam>.

Tim Fatwa Majelis Tarjih dan Tajdid, "Hukum Oral Sex dan Onani dengan Tangan Istri", 10 Muharram 1437 H/23 Oktober 2015, <http://www.fatwatarijih.com/2016/02/hukum-oral-sex-dan-onani-dengan-tangan.html>, diakses 6 September 2019.

Tim Bahsul Masail, Ini Keutamaan Istri yang Minta Duluan, <https://islam.nu.or.id/post/read/103883/ini-keutamaan-istri-yang-minta-duluan>, diakses 10 September 2019.

-----, Hukum Oral Seks di Bagian Kewanitaan, www.islam.nu.or.id, Rabu 4 Mei 2016, <https://islam.nu.or.id/post/read/67870/hukum-oral-seks-di-bagian-kewanitaan>.

-----, Hasil Keputusan Komisi Bahtsul Masail Diniyah Musyawarah Nasional Alim Ulama NU 2014, <https://islam.nu.or.id/post/read/55645/hukum-aborsi-dalam-islam>.

Uddin, Jurnalis. At all. 2007. Reinterpretasi Hukum Islam tentang Aborsi. Jakarta: Universitas Yarsi. Cet-2, pp.167.

Undang-undang Nomor 1 Tahun 1974 tentang Perkawinan.

Undang-undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga (PKdRT).

Undang-undang Nomor 36 Tahun 2009 tentang Kesehatan.

Utomo B. dkk. 2001. 'Insiden dan Aspek Sosial-Psikologis dari Aborsi di Indonesia: Survei Komunitas di 10 Kota dan 6 Kabupaten, Tahun 2000' (Insidence and Social- Psychological Aspects of Abortion in Indonesia: A Community-Base Syrvey in 10 Major Cities ad 6 Districts, Year 2000). Jakarta: Pusat Penelitian Indonesia Universitas Indonesia.

Wadud, Amina. 2001. 'Qur'an and Women: Rereading The Sacred Text From a Women's Perspective', (tran). Jakarta: Serambi Ilmu Semesta.

Wahid, Marzuki. 2014. 'Fiqh Islam, Kompilasi Hukum Islam dan Counter Legal Draft Kompilasi Hukum Islam dalam Bingkai Politik Hukum Indonesia'. Cirebon: ISIF dan Marja. Cet-1, pp.187-195.

ⁱ *Hadits* adalah perkataan Nabi Muhammad saw.

ⁱⁱ *Ijtihad* adalah mengerahkan kemampuan dan usaha sungguh-sungguh untuk menghasilkan kesimpulan hukum dari dalil atau sumber hukum yang terkait tingkah laku manusia.

ⁱⁱⁱ *Fikih* adalah pemahaman hukum Allah SWT yang berasal dari al-Qur'an dan hadist Nabi Muhammad SAW melalui metode ijtihad

^{iv} *Maqasid syari'ah* adalah tujuan-tujuan hukum Islam yang universal.

^v Statement by Juan E. Mendez, Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment Female Genital Mutilation: Progress-Realities-Challenges. Side Event sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women-Geneva, 1 June 2011.

^{vi} *Dharar* berarti menimbulkan rasa sakit, kerusakan.

^{vii} Pasal 4 ayat (1) Anggaran Dasar Muhammadiyah Tahun 2005.

^{viii} As-Sunnah adalah setiap perbuatan yang dilakukan oleh Nabi Muhammad saw. as-sunnah ada tiga yakni sunnah qouliyah yakni setiap perkataan Nabi atau dikenal juga al-Hadist, sunnah takriyah yakni diamnya Nabi atas suatu perkara yang dilakukan oleh sahabat dan Nabi tidak menyalahkannya sehingga bisa dijadikan sumber hukum/ketetapan, serta sunnah fiqliyah atau setiap perbuatan fisik yang dilakukan oleh Nabi.

^{ix} Majelis berdiri berdasarkan putusan Kongres Muhammadiyah ke-16. Sebelum bernama Majelis Tarjih dan Tajdid, pada awal berdiri bernama Majelis Tasyri'. Lihat <http://tarjih.muhammadiyah.or.id/content-3-sdet-sejarah.html>, diakses 27 Agustus 2019.

^x Bab IV Manhaj Pemikiran Islam, Keputusan Munas Tarjih XXV tentang Manhaj Tarjih dan Pengembangan Pemikiran Islam Tahun 2000, hal. 11.

^{xi} Termuat dalam Pasal 4 ayat (1) Bab II angka (1) dalam Putusan Tarjih di Jakarta Tahun 2000, bahwa Muhammadiyah adalah gerakan Islam, dakwah amar ma'ruf nahi munkar dan tajdid, bersumber kepada al-Quran dan as-Sunnah al-Maqbulah.

^{xii} Syamsul Anwar adalah Ketua Majelis Tarjih dan Tajdid Pimpinan Pusat Muhammadiyah Periode 2015-2020.

^{xiii} *Dhaif* artinya lemah. *Hadits dhaif* artinya perkataan Nabi Muhammad SAW yang lemah, tidak dapat dijadikan rujukan hukum

^{xiv} Bab IV dan Bab V, Keputusan Munas Tarjih XXV tentang Manhaj Tarjih dan Pengembangan Pemikiran Islam Tahun 2000, Hal. 16-23.

^{xv} Putusan Majelis Tarjih Tahun 1976 dalam *Adabul Mar'ah fi Islam* sudah membolehkan perempuan menjadi pemimpin di ruang publik dalam jabatan apapun, termasuk hakim Pengadilan Agama. Selain itu, penelitian Siti Ruhaini Dzuhayatin dalam *Rezim Gender di Muhammadiyah* mencatat, Putusan Majelis Tarjih dan Tajdid Muhammadiyah yang pro pada isu-isu perempuan kontemporer dipengaruhi proses ideologisasi rezim gender dalam tubuh Muhammadiyah secara formal tercermin dalam keputusan-keputusan resmi dalam muktamar, produk lembaga, maupun mekanisme internal organisasi yang mula-mula dimulai pada tahun 1927 saat pembentukan Majelis Tarjih di Cirebon. Adapun pembahasan isu perempuan secara periodisasi yang masih bersifat kultural terjadi antara tahun 1912-1930. Lalu, antara tahun 1930-1940 memasuki masa pembakuan Syari'ah. Pada masa 1940-1950 isu gender mengalami stagnasi, hanya ada pengakuan perempuan dan laki-laki sebagai anggota persyarikatan Muhammadiyah serta benturan ideologi Orde Baru terjadi pada tahun 1950-1960. Sejak tahun 1960 isu perempuan mulai digaungkan lagi. Dan sejak tahun 1999 hingga kini mencapai masa progresivitas dan pencerahan terhadap isu perempuan yang disesuaikan dengan kebutuhan zaman. Dzuhayatin, Siti Ruhaini. 2015. '*Rezim Gender di Muhammadiyah*'. Yogyakarta: Mizan, hal.166-194.

^{xvi} Misalnya pendapat Anwar Abbas, salah satu dari 13 Pimpinan Pusat Muhammadiyah yang berpendapat bahwa LGBT haram dan dosa besar, dimaka pelakunya harus diobati sehingga tidak menjadi aib masyarakat. Sedangkan Muhammadiyah—Majelis Tarjih dan Tajdid—belum atau tidak mengeluarkan keputusan seperti itu. Kebijakan yang dikeluarkan adalah LGBT tidak boleh mendapatkan penyiksaan atas orientasi seksualnya. Lihat tesis Yulianti Muthmainnah, '*Human Rights in Indonesian Foreign Policy, Study Case of LGBT*', Thesis at Paramadina University, February, 2015.

^{xvii} Marzuki Wahid, Mudir Ma'had Aly Kebun Jambu dan dosen IAIN Syekh Nurjati Cirebon, wawancara, 4 Maret 2020.

^{xviii} Wawan Gunawan Abdul Wahid, Anggota Majelis Tarjih dan Tajdid Pimpinan Pusat Muhammadiyah. Wawancara pada sesi tanya jawab, Pelatihan Tingkat Tinggi Kader Tarjih DKI Jakarta, 9-10 November 2019.

^{xix} Wawancara Maria Ulfa Anhor, 11 April 2020.

^{xx} Mahbub Maafi, salah satu narasumber dari NU, yang panel bersama narasumber dari Muhammadiyah dan Persis, membahas metodologi fatwa di Muhammadiyah, NU, dan Persis dalam acara Pelatihan Kader Ulama Tarjih Muhammadiyah Tingkat Tinggi, 27-28 Desember 2017 di Muhammadiyah Boarding School Ki Bagus Hadikusumo, Jampang, Bogor. Muhib memberikan tanggapan bahwa NU setuju sunat perempuan.

The Progressiveness of Quranic Interpretation in the Fatwa of Muhammadiyah on the Issue of Women's Sexuality and Reproductive Health

Abstract

The Indonesian Muslim community is accustomed to requesting and carrying out religious fatwa related to worship or muamalah to religious organizations. The variety of religious organizations gave rise to various fatwas. This paper compares the fatwa of Muhammadiyah, Nahdlatul Ulama, and the Indonesian Ulama Council on the issue of female circumcision as a women's sexuality. Qualitative research methods with interviews and literature study. Primary sources are fatwas of religious organizations and interviews. Secondary source from literature study. The Muhammadiyah fatwa is seen as the most progressive and has a strong perspective of gender equality and justice.

Keywords

Fatwa of Muhammadiyah, female circumcision.

Introduction

The phenomena on female circumcision or known as Female Genital Mutilation/Cutting (FGM/C) are still being implemented by the society in several areas (Adrina, 1998 and Suryadilaga, 2004), especially in Madura-East Java, Banten, and Lampung (Musyarofah, 2003 dan Sumarni, 2005). Female circumcision is related with reproductive health and sexuality issue, especially sexual activity between husband and wife. Female circumcision brought out various interpretation and fatwa (decision) on the same text verses and *hadith* that had been used as the law reference.

The article doesn't intend to blame one interpretation and to justify another. Furthermore, in the *ijtihad*ⁱ process in the *fikih*ⁱⁱ principle which was referred to the famous *hadith* of Prophet Muhammad, giving two rewards if the result was correct and a reward if the result was incorrect while they do the *ijtihad*. The interpretations should be read by using the *maqasid syari'ah*ⁱⁱⁱ dan gender friendly jurisprudence. This is important, because an interpretation of a verse finally will conclude to a law that don't happen in an empty space (Wadud, 2001 and Engineer, 2003). But it was also influenced by various perspectives and factors such as social, political, cultural, language, and actors such as the state, men who have the vested interest concluding the law (Mernissi, 1997 and El-Saadawi, 2001), so it will bring the potentiality in producing gender inequality against women (Fakih, 1996).

Maqasid syari'ah had to analyze the humanity crisis and renew its methodology in order to be suitable with the contemporary civilization which is needed now (Jasser, 2007). That's why, the *maqasid syariah* should have women's perspective. Those are, first, by interpreting

hifdh ad-dīn as the right to the freedom religion. That women should be given to actualize their way of being religious, including to express their own identity during the worship or in their daily life by wearing mukena (praying gown), hijab, or selendang (shawl). Second, *hifdh an-nafs* or to keep the life, including the right to be healthy and to be free from disease that threaten the life of women. Third, *hifdh al-'aql* or to keep the reason. Women has rights to think, to express their political choice, and to express their thoughts. Four, *hifdh an-nasl* or to keep the generation, including the rights to express their sexuality in the heath manner and to have guarantee on their reproductive health rights, including rights to descent. And the last, *hifdh al-māl* or to keep their ownership of property, that means women have rights to obtain property or decent work to the sustainability of their life.

While the gender friendly perspective of the law means to address women in the law context that contained three elements. *First*, to examine whether law had failed to take into account women's experience, disadvantaged women, or the law has double standards for women. *Second*, to apply the critical method on the law implementation. *Third*, to use the women's cases as a tool of analysis to see the power relationship between men and women (Irianto, 2003). *Maqasid syari'ah* and laws with the women's perspective, will be used to analyses the such verses and hadith texts.

Method and Previous Research

One of the issues related with sexuality and reproductive health is female circumcision. There have been many researches about it in the past. Female circumcision still occurs in almost all major islands in Indonesia, such as in Sumatra, Java, Kalimantan and Sulawesi.

Rokhmah and Hani said that the Bodia Takalar tribe, in Baddui Village, Makassar, South Sulawesi, female circumcision is performed by a shaman, by scratching the tip of the clitoris with a knife that has been used to cut chicken's comb (Rokhmah and Hani, 2015). In Banjar City, Banjarmasin, South Kalimantan, Tutung Nurdiana found that female circumcision was performed on children aged 40 days to 12 years, which was performed by a midwife or shaman, by cutting or scratching the clitoris. Some cut a little, some cut too much so that it results in women experiencing sexual disturbances such as not feeling sexual stimulation (Nurdiana, 2010). Sampang District and Situbondo District, East Java practice female circumcision when a new baby girl is born as a package for childbirth with ear piercing, this is done by midwives or shaman (Ariesta, 2018). Meanwhile, the female circumcision procession in Lampasi Ligo Nagari, West Sumatra began with *basmalah*, the intention of circumcising a girl to Islamize the child, then scratching the tip of the clitoris to cause the wound to bleed. If the child complains of pain and cries then the circumcision is complete. It ends with telling historical stories in Islam (Salma, 2016).

In 2018, I analyzed that the practice of female circumcision was against the *maqashid sharia* and the MUI fatwas contributed to preserving that terrible culture (Muthmainnah, 2018). The Ministry of Women's Empowerment and Child Protection Republic of Indonesia published guidelines for advocacy and dissemination of prevention of female circumcision for religious leaders in 2018. In the book inviting religious leaders to stop female circumcision, this book also just mentions fatwas on female circumcision from Muhammadiyah, NU, and MUI (Erni, dkk, 2018). However, from all of these studies, no one has discussed how the fatwas of the three organizations can be different, even though they refer to the same verses and hadiths. For those reasons, this research was written.

This research is a qualitative research, will use the descriptive method by using deep interview and research document. By interviewing ulama, taking the opinions of ulama from

the workshop I attended, while the data analysis will use the content analysis of the fatwa or formal decision of the organization. The primary data are obtained from the fatwas that had been issued by Muhammadiyah, NU, and MUI. While the secondary data are obtained from the interviews with several parties that affiliated with the three organizations as well as the publications and news in the media that had been verified. Then the data will be analysed to find conclusions.

In this paper, Muhammadiyah will get larger portion of analysis, in addition to Muhammadiyah as the first organization that was founded in Indonesia, also become the biggest organization in term of assets, with the modernist type and bring the advance ideas (Burhani, 2018 and Fanani, 2018). The paper will address that Muhammadiyah is a progressive organization in issuing the fatwa that take side to women's rights perspective (Muthmainnah, 2019).

In addition to Muhammadiyah, both NU and MUI often issue fatwa related to women and sexuality issues such as the fatwa on female circumcision. For the purpose of the study, I will use the fatwa documents that had been issued by those institutions. For the fatwa related to female circumcision, I will use the the book of *Fatwa-fatwa Tarjih Tanya Jawab Agama Jilid 2* (Fatwa of the

Tarjih: Questions and Answer Part 2), *Draft Majelis Tarjih dan Tajdid tentang Materi Fikih Perempuan Tahun 2010* (Draft of Majelis Tarjih and Tajdid on the issue of Fiqh for Women Year 2010), and book *Problematika Fikih Perempuan* (*The Problems of Women in Fiqh*). While for NU, for the primary sources I will use *Keputusan Komisi Bahtsul Masail ad-Diniyyah al-Maudhu'iyah ke-32 tentang Khitan Perempuan* (The Decision of Bahtsul Masail for the Thematic Religious Issues 32nd on Female Circumcision). The fatwa for MUI is *Fatwa tentang Hukum Pelarangan Khitan terhadap Perempuan Tahun 2008* (*The Fatwa on the Law of Prohibition of Female Circumcision Year 2008*).

Research questions this research on the progressiveness of Quranic interpretation in the Fatwa or Decision of Muhammadiyah on the issue female circumcision. To explain the issues, the paper will narrate two main studies. First, how the same Quranic verses on the issue of women's sexuality and reproductive health such as female circumcision can be interpreted and meant differently by three religious based organization in Indonesia namely Muhammadiyah, NU and MUI. Second, how the Islamic jurisprudence with the women's rights perspective address the fatwa (religious decision) that had been undertaken by those three organizations.

The Issue of Sexuality; Story of Female Circumcision Decision in Indonesia

The government of Indonesia always received comments and recommendations to eliminate the female circumcision practices which confound between tradition and religious paradigm that still have gender biases. For example, in 1 Juni 2001, as reported from the United States Department of State about Indonesia: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC). The, the Concluding Observations of the CEDAW Committee Year 2007, report from the UN Special Rapporteur Juan E. Mendez Year 2011,^{iv} recommendation of the session of the Universal Periodic Review 2017, and SDGs Goal 5 on the harmful traditional practices to women's body. But, up to now the female circumcision is still often practiced by some people in several areas.

The efforts to eliminate female circumcision practices had been initiated through issuing the *Surat Edaran Nomor: HK 00.07.1.3.1047a tentang Larangan Medikalisasi Sunat Perempuan bagi Petugas Kesehatan* (Circulation Letter Number: HK 00.07.1.3.1047a on the Prohibition of the Medicalization of Female Circumcision) that was issued by the General Director of the Public Health of the Ministry of Health Affairs of the Republic of Indonesia on 20 April 2006.

It gave instructions to prohibit the medical health workers to do the circumcision. But this policy was challenged by MUI, by issuing the decision of the Fatwa Year 9a Year 2008 on the Prohibition of Prohibiting Female Circumcision. It contained that female circumcision is a *makrumah* (honour) and prohibiting the female circumcision practices means against the syiar Islam (spreading Islam). The Fatwa of MUI had made the government of Indonesia that had clearly rejected the female circumcision practices moving backwards.

The Ministry of Health Affairs in responding the fatwa MUI issued the *Peraturan Menkes Nomor 1636 Tahun 2010* (Regulation of the Ministry of Health Affairs Number 1636 Year 2010) that allow the female circumcision. In order to keep hygiene, the female circumcision should be done by the medical health workers. The Ministry Regulation Number 1636 had received rejections and strong reactions from the activist and the civil society who concerns to the issue of female circumcision. The newer regulation entitled *Peraturan Menkes Nomor 6 Tahun 2014 tentang Pencabutan Permenkes Nomor 1636* (The Regulation of Ministry Health Affairs Number 6 Year 2014 on the Withdrawal of the Regulation of Ministry Regulation Year 1636) was issued. The article number 1 of the Ministry Regulation Number 6 Year 2014 firmly stated that The Ministry Regulation Number 1636/Menkes/Per/2010 had been cancelled and not applicable anymore. While the article number 2 gave the mandate to *Majelis Pertimbangan Kesehatan dan Syara'* (The Health and Syara' Consideration Assembly) to issue the guidance of the implementation of female circumcision that ensure the safety and health of circumcised women and avoiding the female genital mutilation (FGM) practices.

Then, the The Health and Syara' Consideration Assembly of the Ministry of Health Affairs that had been formed by and should be responsible to the Ministry of Health issued the Letter Number 05/MPKS/II/2014 on the Socialization of the Guidance of Female Circumcision that was addressed to the Ministry of Health on 26 February 2014. It contained that the implementation of female circumcision is a kind of nature and syiar (spreading) the values of Islam, and its law was concluded as *makrumah* or promoted worship action. The practice of the female circumcision is enough to by removing the membrane (*jaldah/columprea- pupotium*) that covered the clitoris, and should not be done exaggerated for example by cutting or injuring the clitoris (incision and excision) that caused *dharar'* (danger). Because of the national policy allow the female circumcision practices, in the grassroot the practices caused fatalities. The report from National Commission on Violence Against Women addressed the death cased experienced by a baby girl in Banten province because of the female circumcision (Komnas Perempuan, 2013).

Here is the flow chart of the national policies regarding with the female circumcision that had been issued by the Ministry of Health Affairs.

2006	2008	2010	2014	26 Feb 2014
Circulation Letter Number: HK 00.07.1.3.10 47a on the Prohibition of the	Fatwa Year 9a Year 2008 on the Prohibition of Prohibiting Femal	Regulation of the Ministry of Health Affairs Number	The Regulation of Ministry Health Affairs Number 6 Year	The Health and Syara' Consideration Assembly of the Ministry of Health Affairs that had been

Medic alizati on of Femal e Circu mcisio n,	e Circu mcisi on, Fatwa of MUI	1636 Year 2010	2014 on the With draw al of the Regu lation of Mini stry	formed by and should be responsib le to the Ministry of Health
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by Minist ry of Health Affairs			Regu lation Year 1636	issued the Letter Number 05/MPK S/II/2014 on the Socializat ion of the Guidance of Female Circumci sion that was addresse d to the Ministry of Health on 26 February 2014
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Table 1: national decision

Muhammadiyah and the Process of Issuing Tarjih Production

This part consists of a brief description of Muhammadiyah profile and how through the founding of Majelis Tarjih dan Tajdid (MTT) or Tarjih and Tajdid Council of Muhammadiyah implement its mechanism in forming the Tarjih products (the fatwa products). So that achieving the fatwa products that so called progressive.

Muhammadiyah defined itself as an Islamic movement, and *amar makruf nahi munkar* and tajdid organization, based on the Quran and Hadits rooted to Islam^v which nowadays become the biggest modern Muslim organization which was founded by KH. Ahmad Dahlan on 18 November 1912. Although calls for returning back to the teaching of al-Quran and al- Sunnah,^{vi} since the beginning up to now not much polemics to the political issues and more focuses to implement its organizational activity through building the modern school, hospital, or Islamic boarding school, orphanage, micro economics, and other business entities which provide the social services for its members.

KH. Mas Mansyur, one of the leaders of the organization, Muhammadiyah build a committee which is called Tarjih and Tajdid Council in 1927 in Pekalongan.^{vii} The function of this council is resulting the fatwas or ensuring the laws on specific issues. Tarjih and Tajdid Council use the *tarjih* method, it means by choosing one and its consequences leaving another opinion if there is a meaning of a two hadith or more that seems contradictory. In the making of law conclusion, it was based on the Quran and Hadith especially in the new problem which had not legal provisions before or a problem that always become a debate in the society.

The main idea of the founding of this Council is because Muhammadiyah found that the society still have various perspective in implementing a law of a *fiqh* (Islamic jurisprudence) problem which have the same issue. This situation created restlessness among the society, especially on the value of character building of its members, so it was needed to create an institution that was able to compile the various Islamic school of thoughts including to find the solution for the issues that had not been committed by the previous ulama by remaining putting forward the values on the protection of individual rights.^{viii}

In its development, Tarjih and Tajdid Council in addition sourced from the Quran and the Sunnah, also adopted the development of Islamic law.^{ix} The spirit of *tarjih* also accommodated the perspectives of religious understanding, not affiliated to the certain school of thought/mazhab, having the *tajdid* (innovation) insight, tolerance insight, openness insight, and accepted the progress ideas in the society to become its considerations.^x Therefore, Muhammadiyah didn't do the *Taqlid* (imitation) to follow rigidly one of the prominent

mazhab (school of thoughts) in Islam. However, echoing the *ijtihad* (strong efforts) to interpret and to understand directly the Quran and the Sunnah. In understanding the Sunnah, Muhammadiyah and 'Aisyiyah—as the autonomous women organization—only take as-Sunnah ash-Shahih (the correct and authorized Sunna). The weak Hadits or as-Sunnah which is considered as weak (*dha'if*)^{xi} is not practiced, although for the worships that is considered as virtue.

The Tarjih method, then use the method *ijtihad bayani*, *ijtihad qiyashi*, dan *ijtihad istishlahi*. First, *ijtihad bayani* is a kind of *ijtihad* (religious effort) that is connected with linguistic. For example, a verse can be interpreted as *majaz* (connotation), *musytarak* (ambiguitas), the general verses ('*am*) or *mubayyan*, that is specifically applied and explaining the *khash* or *mubayyin* (the specific things), the *qath'i* and *dhanni* verses, the verse that show the order (including *wajib*, *sunnah*, *makruh*, or *haram*), including the law which problems had been mentioned in the Quran. Second, *ijtihad qiyasi* or which often known as *ta'lili*. In general, this kind of *ijtihad* (effort) is an effort is implemented to find the law conclusion for a problem which had not been mentioned in the *nash* (Quranic texts) directly. So that it is needed to use the reason to utilize '*illat* as its foundation. The way to find the '*illat* is by using the *qiyas* (association) method and *istihsan* also to change the law itself, when the new '*illat* or reason for the substitution of the old '*illat*. Third, *ijtihad istishlahi* is a kind of *ijtihad* which is used to identify the problem that had not been mentioned in the *nash* (Quranic texts) as reference.^{xii}

In addition to the method above, the Tarjih and Tajdid Council also used the women's rights perspective. The contribution of the ulama of Muhammadiyah who have the strong women's rights perspective in addition to the 'Aisyiyah leaders who always also struggle for the women and children needs in the *fiqh* discourse, gave the significant contributions in the Tarjih product that women and children friendly.^{xiii} One of example of the Decision of Tarjih and Tajdid Council which discussion had been strongly followed and and monitored by the Central Leaders of 'Aisyiyah was on *Keluarga Sakinah* (Sakinah Family). The decision had taken side to the women's rights because of the monogamy, qual relation between husband-and-wife and non-domestic violence elements, as the principle of Sakinah Family as the guidance for the Muhammadiyah members (Muthmainnah, 2019).

While the products that had been resulted by Tarjih and Tajdid Council among them are the Decision of Majelis Tarjih, Fatwa of Majelis Tarjih, and Tarjih Discourses. The differences among the three products: The Decision of Majelis Tarjih had passed the *tanfidz* process which involved all of the council in 34 provinces and agreed and consent, so that it can be organizationally legalized by the Central Leaders of Muhammadiyah. The Fatwa of Majelis Tarjih is a kind of a legal Islamic jurisprudence products as the answers from the questions raised by the members of Muhammadiyah as well as people in general. The answers usually are discussed every Friday, then it is uploaded in the website of *Majelis Tarjih dan Tajdid* (Tarjih and Tajdid Council), and published in Suara Muhammadiyah Magazine or printed in the book *Fatwa-fatwa Tarjih Tanya Jawab Agama* (The Fatwa of Tarjih and Questions and Answers of Religious Issues). While the Tarjih Discourses, usually is the individual perspective or opinion of the member of the Tarjih and Tajdid Council, so that this opinion cannot be used as legal institutional reference. But of course, it can be applied as a religious knowledge.^{xiv}

NU and the Process of Issuing Tarjih Production

Indonesia is not a country that implement based on the Syariah or Islamic Law, but the national law. In facts, as the predominantly Muslim country with the biggest Muslim

population in the world, the fatwas from the organization as well as opinion of the religious leaders, generally implemented by Muslim society. Fatwa from the Tarjih and Tajdid Council of Muhammadiyah, Bahtsul Masail (Problem Discussion Forum) of NU, and fatwa MUI that almost often be used as reference for the Indonesian muslim society.

In issuing the Fatwa, Muhammadiyah and MUI consistently refer to the Quranic verses and hadith text that supported the verse as highest Islamic law. While the fiqh principle and the opinions of the ulama are not always referred by both organizations. This is on the contrary with the NU with implement the opposite things. In the beginning, Bahtsul Masail NU referred to the opinions of the ulama and considered the *fiqh* principles. While the Quranic verses are rarely bring referred directly by the NU. There are three methods of concluding the Fatwa of NU. *First*, *qauly* method, is the exploration of the laws based on the opinion of the Fiqh Ulama/Islamic Jurist which had been written in the prominent (*mu'tabarah*) books. *Second*, the *ilhaqy* method, is a method that assimilate the law on the problem that had not been mentioned in the text (the Holy Quran and Hadith) with the problems that had been explained in the texts, and the law refers to what had been mentioned in the prominent (*mu'tabarah*) books. Third, the *manhajy* method, is solving the religious problems that had been elaborated through *bahtsul-masail* by following the thought and principles of the law-making conclusion that had been arranged by the Imam of *madzhab* or Islamic school of thoughts (Mahfudh, 2004).

The process of issuing the Fatwa in NU is done through conducting the Musyawarah Nasional (Munas) Alim Ulama or National Assembly of the Ulama which invited ulama, kyai, leaders of NU or not, to discuss religious problems that are related to life of *ummah* (people) and nation. I was divided into three commission namely *waqi'iyyah* (the discussion of the actual religious problems), *maudhu'iyyah* (the discussion of thematical religious problems), and *qanuniyyah* (the discussion of religious problems related to the national laws and policies). In the next development, the *fiqh* (Islamic jurisprudence) that had been formulated hundred years ago, it is not enough to answer the social problems that happen nowadays. That's why the ulama of NU also use the *istimbath* (law making conclusion) method. In addition to that, the *ijtihad* method was also applied by the Ulama of NU namely *ijtihad jama'i* (collective efforts) by exploring the foundation of the texts or *ijtihad ilhaq/qiyas* (Mahfudh, 2004).

By referring to the previous ulama in taking the law conclusion, the ulama of NU struggle to the previous tradition. As the opinion of Marzuki Wahid, the consideration of ulama of NU did not referred to the Quranic verses interpret of a verse, so that a *mujtahid* or *mufassir* -the person who interpret the Quranic texts- should understand the Quran and its whole knowledge on it perfectly (the knowledge of *nahwu*, *sharaf*, *manthiq*, *tafsir*, *ushul al-hadith*, *qawaid*, *maqashid al-syari'ah*, *balaghah*, and related knowledge). As Imam Ghazali required several knowledges that must be managed to interpret the text verses. Considering that situation, then the ulama of NU perceived that the previous ulama had been qualified on their knowledge, referred to the Quran to conclude the law, so that the ulama of NU felt more safety and comfortable if interpret the Quranic texts by doing the reading of the results of *ijtihad* by the previous ulama—the imams of the *mazhab* or Islamic school of thoughts- that had become the source of law references. The Fatwa of NU were divided into *waqi'iyyah*, *maudlu'iyyah*, and *qanuniyyah*. The fatwa of NU on the female circumcision is part of *masail ad- Diniyyah al-Maudhu'iyyah* or the discourse on the thematical religious issues, and its foundation of law directly referred to the opinions of ulama, did not referred to the Quran.^{xv}

While the MUI utilize three approaches in issuing the fatwa namely the *nash qath'iy* through the *qauliy* and *manhajy* approaches. The fatwa of MUI based on the Quran and Hadith, if the answer of can be found, so the answer will be looked for through the opinions of the previous ulama. If the law arguments had been clear (*ma'lum min al din bi al-dharurah*), so the law conclusion will be taken.

Female Circumcision; Women's Body in the Contestation of Fatwa

Muhammadiyah has several narrations related to female circumcision. First, the fatwa of female circumcision that had been booked in the Fatwas of Tarjih, Questions and Answer on the Religious Issues Number 1 Year 1991. The Fatwa was started with the definition of female circumcision according to the World Health Organization (WHO), the practiced that had been done by the people in Africa and the long and short impact of the circumcised women. The Quranic verse that often used as reference is the QS an-Nisa'[4]:125 on following the teaching of Prophet Ibrahim and hadith which is usually used as the law reference. It was the hadith that narrated by Ibnu Majah from Aisyah and Ibnu Amr, if the two of circumcised genital organs meet, so they must take a shower. This hadith was analyzed as not a law conclusion. The Quran of surah an-Nisa'[4]:125 if it is juxtaposed with the hadith as The Prophet Ibrahim as. did the circumcised when converting to Islam, and the hadith that stated that circumcision is a *makrumah* for woman and obligation for man. The hadith was considered as an unclear order, that circumcision is not an obligation and also not an indicator as a Muslim or non-Muslim, although negative impact on female circumcision, so the fatwa decided that woman is not circumcised.

Second, analysis that came from the subject of 'Fiqh on Women' in the National Assembly of Tarjih 27th year 2010 in Malang, East Java. The source of law that was referred is not far from the fatwa year 1991. The verse was mentioned in QS. an-Nisaa[4]:125, QS. an- Nahl[1]:123 and QS. an-Nisa[4]:125. The hadith that was referred was the hadith narrated by Bukhari-Muslim that said that Prophet Ibrahim was circumcised when he was 80 years old by the ax. Islam is the religion that followed the religion of Prophet Ibrahim that imply the circumcision. Prophet Muhammad was circumcised when he was six days [Ibnu Qayyim Al- Jauziyyah]. The narration of Abu Hurairah mentioned that a person is ordered to be circumcised if he is converted to Islam. From Abu Hurairah ra., Prophet Muhammad said, that they are five natures: circumcision, cutting the public hair, cutting the moustache, cutting the nails, and pull-out the armpit hair" (HR Bukhari and Muslim); "If two circumcised genital organs meet each other, so they must take a shower" (Ibnu Muslim); Hadith Abu Dawud from Ummu Athiyah that a woman will be circumcised in Madinah. Then Prophet Muhammad said, "Do not overcut, because it is more pleasure (when having sexual intercourse) and more loved by the husband" (HR Abu Dawud and Baihaqi). In another narration Prophet Muhammad said, "Just cut the top of it and do not overcut, because that part makes the face more glowing and part of the pleasure (of the husband)". Honestly, Abu Dawud who narrated this hadith said that this hadith is weak, because one of the narrators was unknown his origin (*majhul*). Likewise, the opinion of Ibnu Munzhir, as quote by Ibn Hajar al-Asqalani," none of hadith that can be used as the law reason for the female circumcision problems, and none of the sanad (linkage) that can be followed". Then the ulama have different opinions on the uncertainty of the order of female circumcision, including the followers of Syafii school which argued that female circumcision is not obligatory. Futhermore disadvantaged women.

Third, the opinion of Muhamad Rofiq Muzakkir, a secretary of Muhammadiyah, America Bunch said before taking the conclusion on the law of female circumcision, Muzakkir

started with the very brief history, definition, and classification of female circumcision or FGM/C according to the WHO, the opinions of ulama (Islamic scholars), arguments, and analysis of the prohibition. The opinion of ulama which was undertaken is the opinions of the four Imams of Mazhab (leader of Islamic school of thoughts), Imam Nawawi, Syeikh bin Baz a mufti from the United Kingdom of Saudi Arabia who said that this is a *sunna*, Syeikh Jadual Haq the leader of a fatwa institution in Egypt which also said that this is *sunna*, Yusuf Al Qaradhawi who said that this is *mubah* (allowed), Salim al-Awwa, a scholar from al-Azhar University who said that female circumcision is an action that contained *mudharat* (danger), and also Syeikh Mahmoud Syalthout as an Al-Azhar Syeikh who said that there is no connection between Islam, morality, and women's health. While the discussion on the verse and hadith were same with the verse and hadith as referred by Muhammadiyah as mentioned above. Finally, Muzakki concluded that the concept of ushul al-fiqh on *shaddu al-dzari'ah* (to close the door of possibility that can cause the prohibited action) can be used as reference for the prohibition of female circumcision or FGM/C. Because there is no argument that avoid the prohibition of female circumcision, there is no medical benefit on implementing it, that female circumcision can open the door of danger, and actually female circumcision is not the commandment of Islam, but more just as a tradition (*urf*) that had been developed in the society (Muzakki, 2014:103-127).

Based on the three Fatwas and opinions above, there is a suitable conclusion. It ends with the commitment that female circumcision should be avoided because of not part religious teaching and furthermore if it is implemented, it will disadvantage women. In addition to the decision of the Tarjih, a prominent figure in Tarjih Council, Wawan Gunawan Abdul Wahid, also said that female circumcision is also violate the right to live of women (*hifdh al-nafs*). Even though woman has the right to be free from the illness because of the female circumcision practices.^{xvi}

NU used the five hadith for the issue of female circumcision, that the *khitan* (circumcision) is a *sunna* (promoted) for men and honour for women (HR. Ahmad dari Usamah, Thabrani in al-Mu'jam al-Kabir dari Syaddad bin Aus dan Ibn Abbas). That the nature (*fithrah*) are five, or there are five things that included in the nature things *khitan* (circumcision), cutting the nails, and cutting the moustache (Bukhari, Muslim, Abu Daud, al-Darimi, Malik, and Ahmad). From Ummu Athiyah al-Anshariyah, verily in Madinah there was a girl which will be circumcised, the Prophet said "Do not overcut it, because that part will give advantage for woman and will pleasure the husband". The *hadith* narrated by Abu Daud was regarded as *dlaif* (weak) as said by Abu Dawud, but he got two *syahid* (witnesses) those were hadist Anas and *hadith* Ummi Ayman which is narrated by Abu As-Syaikh in the book of Aqiqah, and the *hadith* of Ad-Dlahhak ibn Qays which was narrated by al-Baihaqi as said by al-Adzim Abady the author of Aunul Ma'bud; and the last hadith on 'Do circumcise and do not overcut. Because circumcision will brighten the face and will make husband feel more pleasure-during the intercourse HR. ath-Thabarani and Al-Hakim from Adl-Dlahhak ibn Qais RA. Those hadiths were regarded as *shahih* (correct) according to Imam Suyuthi. And the last, hadith that explained about Prophet Ibrahim who was circumcised when he was 80 years old by a carpenter.

While the opinion of ulama that was chosen is the opinion of Fath al-Bari Syarh Shahih al-Bukhari, which said that there was various difference of opinions among the ulamas regarding female circumcision. Imam Shafi'i's opinion, circumcision is obligatory for men and women in *Khitan al-Inats* which said that circumcision is useful for men and women to reduce lust or libido, prevent unpleasant odors from the pile of dirt behind the *qulfah*, inhibit attacks

sperm inflammation. The lesson learned from this practice is to preserve the shari'a of Allah and his Apostle, for the purpose of purity, cleanliness, maintain character, stabilize lust, replace dangerous traditions of traditions that are harmful and not in accordance with *Shari'a*, to improve the *syi'ar* of worship not the cultural tradition, and to maintain the integrity of society so that circumcision does not be applied absolutely. Then, the opinion of Al-Majmu 'Syarh al-Muhadzdzab which argued that female circumcision is to cut part of the entering place of the penis. So, the thin skin that covers the urethra is partially cut during female circumcision. As well as the opinion of Bahr al-Ra'iq Syarh Kanz al-Daqa'iq that female circumcision is the place where the skin is cut like a rooster's comb on the top of the vagina. This part is circumcised. The goal is to reduce the female libido.

Furthermore, the NU fatwa mentioned the meaning of '*sunnah*' and '*makrumah*' in each hadith and opinion of the chosen ulama meaning men are more encouraged to circumcise than women. So, it can be interpreted that the circumcision is *sunnah* or encouraged for male and *mubah* or allowed for female, or mandatory for male, and *sunnah* (encouraged) for female. Opinions that say female circumcision is forbidden actually do not have the *syar'i* arguments, except just see that female circumcision is hurting or painful for victims (women), while the hadith that describes female circumcision (hadith Abui Dawud) does not show *taklif* (burden) in addition to its validity is doubtful. Though there is a fiqh principle argument which states that '*adam al-dalil laisa bidalilin*' (the absence of an argument is not an argument). Circumcision (for men) is recommended to be announced, while not in women. Syarh Zad al-Mustaqni said circumcision was prescribed to purify men as well as to reduce the lust of women. Because, if a woman is left without circumcision, her lust will flare up. Circumcision is obtained '*iffah*' (able to guard against the prohibited action).

Actually, the effort to influence the fatwa to side with women and eliminate the female circumcision practices had been pursued by the Fatayat NU when discussing the fatwa of female circumcision in Makassar, January 29-31, 2010. According to Maria Ulfa Anshor, who was then Chairperson of Fatayat NU, said that 'Fatayat who propose a script. The proposal was discussed in the Ulama National Conference but the results of the decision were not in accordance with Fatayat's formulation. This is influenced by the perspective/perspective of National Conference participants who are biased towards the text. While Fatayat discusses female circumcision not only text. But also, the context.^{xvii} The prominent figures of NU cleric, Husein Muhammad, who has a good perspective on women's bodies and rejects female circumcision, has written a study related to female circumcision (Muhammad, 2001, his opinion was also not made a reference by NU National Conference participants in the National Conference discussion. Mahbub Maafi, a NU figure who agreed with the implementation of female circumcision, said 'female circumcision in Indonesia is different from in Africa. Only Westernized activists who do not agree with the symbol of Islam about this female circumcision.^{xviii} This situation shows that it is still difficult for NU to accept the inputs, although it comes from the internal community of NU, including the studies on the impact of female circumcision.

Furthermore, the MUI fatwa on female circumcision. MUI refers to al-Qur'an in its fatwa which is QS. An-Nisa'[4]:125, QS. An-Nahl[16]:123, QS. Ali Imran[3]:95, QS. Ali Imran[3]:31, QS. Ali Imran[3]:32. There are several selected hadiths, first, 'Circumcision is the sunnah (decrees of the Prophet) for men and makrumah (glory) for women' (HR. Ahmad). Secondly, Abdullah ibn Umar that the Messenger of Allah said: 'O women of Anshor color your nails (with boyfriends and the like) and do circumcision, but do not overdo it' (al- Syaukani). Third, 'If you meet two circumcisions, then you must take a bath, I and the

Messenger of Allah have done it, then we take a shower' (HR at-Turmudzi, Ibn Majah and Imam Ahmad from 'Aisyah r.a.). Fourth, from Umm 'Athiyyah r.a, it was told that in Medina there was a female circumcision, then Rasulullah SAW said to the woman: 'Do not overdo it, because this is the happiest of women and the most favored of men (their husbands)'.

Fifth, from adh-Dhahhak bin Qais that in Medina there is a female circumcision expert named Ummu 'Athiyyah, Rasulullah SAW said to him: 'Do the khifadh (circumcision) and do not overdo it, because it brightens the face and benefit the husband more' (HR. At -Tabrani from adh-Dhahhak). Sixth, five cases that constitute human nature: circumcision, al-Istihdad (shaving hair around the pubic), shaving the armpits, cutting nails, and cutting the mustache (HR Jama'ah from Abu Hurairah r.a.). The opinion of the ulama (*qoul ulama*) who referred to the MUI gave the conclusion that all ulama agreed that circumcision for women was a requirement.

MUI fatwa is first, the status of female circumcision is circumcision for men and women are the nature and symbols of Islam. Female circumcision is glory and its implementation is a form of worship. Second, the law regarding the prohibition of female circumcision. Prohibiting female circumcision is contrary to Shari'a law because circumcision for both men and women is the nature and nature of Islam. Third, the limits or procedures for female circumcision. In carrying out female circumcision, the following things need to be considered is female circumcision should only be done by cutting the foreskin, and expanding circumcised areas such as cutting (incision or excision) or injuring the clitoris that leads to excessive mutilation is haram.

The fatwas of Muhammadiyah, NU, and MUI on the issue of female circumcision indeed have many similarities when quoting verses of the Qur'an, al-Hadith, and the opinion of the same ulama. Reference the three organizations as below.

Reference Organization	The Qur'an	The Hadith	Opinions of the Ulama	Conclusion
Muhammadiyah	Yes	Yes	Yes	Yes
NU	No	Yes	Yes	No
MUI	Yes	Yes	Yes	No

Table 2: comparative decision

The same Quranic texts which is used by Muhammadiyah and MUI were QS. an-Nisa[4]:125 and QS. An-Nahl[16]:123. QS. An-Nisa'[4]:125 said:

وَمَنْ أَحْسَنُ دِينًا مِمَّنْ أَسْلَمَ وَجْهَهُ لِلَّهِ وَهُوَ مُحْسِنٌ وَاتَّبَعَ مِلَّةَ إِبْرَاهِيمَ حَنِيفًا ۚ وَاتَّخَذَ اللَّهُ إِبْرَاهِيمَ خَلِيلًا

"And who is better in religion than one who submits himself to Allah while being a doer of good and follows the religion of Abraham, inclining toward truth? And Allah took Abraham as an intimate friend" (QS. An-Nisa'[4]:125).

QS. an-Nahl[16]:123 as mentioned below:

لَمْ أَوْحِنَا إِلَيْكَ أَنْ تَتَّبِعْ مِلَّةَ إِبْرَاهِيمَ حَنِيفًا ۚ وَمَا كَانَ مِنَ الْمُشْرِكِينَ

Then We revealed to you, [O.. Muhammad], to follow the religion of Abraham, inclining toward truth; and he was not of those who associate with Allah. (QS. An-Nahl[16]:123)

The two verses above, are both interpreted as an order to follow the teachings of Ibrahim, which is not just about the oneness of Allah SWT and preaching to convey his teachings. Muhammadiyah understood it as a circumcision order for men. The MUI interprets the circumcision order for men and women, as a *syiar* of Islam.

While the hadiths that were undertaken by the three organizations, some of them were same while some others were different, as shown in this table.

Or ga niz ati on	Muham madiyah	N U	M U I
Hadith			
Prophet Ibrahim a.s was circumcised at 80 years old	Yes	Y e s	N o
Five natures, including circumcision	Yes	Y e s	Y e s
Ummu 'Athiyyah, women were circumcised in Madinah, Prophet's message for not overdoing in circumcision	Yes	Y e s	Y e s
Ummu 'Athiyyah, female circumcision glows the face and pleasure the husband	Yes	Y e s	Y e s
Circumcision as an encouragement for men and honor for women	No	Y e s	Y e s
The meeting of two genitals, obligate the bathing	Yes	N o	Y e s

Table 3: comparative hadith

The same hadith selected by these three organizations gave rise to different interpretations. Ummu 'Athiyyah's hadith, for example, means that MUI and NU women still have to be circumcised, although don't overdo it. NU added, by being circumcised, a woman's libido will not be wild and only for her husband. While Muhammadiyah understood the Prophet's message to the circumcision in Medina a metaphor, subtle language to forbid, do not perform female circumcision. The sentence 'don't overdo it, because that part (the clitoris) actually pleases the husband when having sexual relations with the husband and wife' is understood precisely the practice of circumcision should not be performed on women because the pleasure of sexual relations is on the female clitoris. Hadith five fitrah, Muhammadiyah understands this is an obligation for men, while MUI and NU are also ordering for women not only for men. As for the hadith meeting of the two sexes (who are circumcised), then you must take a shower. Muhammadiyah understands that it means two different sexes without discussing circumcision, because this is an order to purify after sexual intercourse between husband and wife. While the MUI understands that two different genital organs (penis, vagina) are both circumcised.

The final decision of the three fatwas of the organization, Muhammadiyah, argued that female circumcision was not an Islamic syllable command, a very detrimental effect on a woman's body, it was not necessary, the clitoris was a way to enjoy sexual relations between

husband and wife, and a wife also had the right to enjoy it. NU is the opposite, arguing that circumcision is a religious order and a form of one's Islam. Female circumcision is also a way to curb libido, controlling one's desires so that they are not too wild. MUI underlines the female circumcision part of the symbols of Islam which is carried out by men and women. The implementation of female circumcision has rules so as not to overdo it.

References

- Adrina, et al. 1998. 'Hak-hak Reproduksi Perempuan yang Terpasung', Jakarta: Pustaka Sinar Harapan dan Ford Foundation, pp 2-6.
- Amrulloh, Moh. Asyiq. et al. 2019. 'Fiqh dan Ushul Fiqh'. Jakarta: Prenada Media Group, pp. 292-293.
- Anwar, Syamsul. 1439 H/2018 M. 'Manhaj Tarjih Muhammadiyah'. Yogyakarta: Panitia Musyawarah Nasional Tarjih XXX.
- Auda, Jasser. 2007. 'Maqasid al-Shariah as Philosophy of Islamic Law'. London: the International Institute of Islamic Thought, pp 21-23.
- Burhani, Ahmad Najib. 'Muhammadiyah' in Oxford Islamic Studies Online, Oxford Islamic Studies Online, link <http://www.oxfordislamicstudies.com/article/opr/t343/e0296>, accessed 18 November 2019.
- Dzuhayatin, Siti Ruhaini. 2015. 'Rezim Gender di Muhammadiyah'. Yogyakarta: Mizan, hal.166-194.
- El-Saadawi. Nawal. 2001. 'Perempuan dalam Budaya Patriarki'. (terj) Zuhilmiyasri. Yogyakarta: Pustaka Pelajar.
- Engineer, Asghar Ali. 2003, 'The Qur'an Women and Modern Society', (tran). Yogyakarta: LKis, pp 7.
- Fakih, Mansour. 1996. 'Analisis Gender dan Transformasi Sosial'. Yogyakarta: Pustaka Pelajar.
- Fanani, Ahmad Fuad. 'Reimaging Muhammadiyah; Islam Berkemajuan dalam Pemikiran dan Gerakan', (Yogyakarta: Suara Muhammadiyah, 2018), cet-1.
- Hadad, Tini. Dkk. 2001. 'Perempuan dan Hak Kesehatan Reproduksi, Seri Perempuan Mengenal Dirinya'. Jakarta: Yayasan Lembaga Konsumen Indonesia, Forum Kesehatan Perempuan, dan Ford Foundation.
- Hukum Online. 2014. 'Menteri Agama, PP Aborsi sudah sesuai dengan fatwa MUI', link <https://www.hukumonline.com/berita/baca/lt53ebf97b67ebb/menag--pp-aborsi- sudah-sesuai-dengan-fatwa-mui/>.
- Instruksi Presiden Nomor 1 Tahun 1991 tentang Kompilasi Hukum Islam (KHI).
- Irianto, Sulistyowati. 2003. 'Kawin Kontrak dalam Perspektif Pluralisme Hukum dan Perempuan' dalam *Ketika Aurat Dikuasai Surat*, Srintil Vol. 4. Jakarta: Desantara.
- Ka'ah, Rifal. 1999. 'Hukum Islam di Indonesia'. Jakarta: Universitas Yarsi, pp. 51-59. Kitab Undang-undang Hukum Pidana (KUHP).
- Koran Jakarta. 2019. Kemenkes Sediakan Layanan Aborsi Aman. Link <http://www.koran-jakarta.com/kemenkes-sediakan-layanan-aborsi-aman/lihat> juga <https://www.merdeka.com/peristiwa/menkes-siapkan-layanan-aborsi-aman-sesuai-uu-kemen-pppa-nilai-pelanggaran-hak-anak.html>.
- Kode Etik Kedokteran Indonesia Tahun 2012
- Mahfudh, Sahal. 2004. 'Nuansa Fikih Sosial'. Yogyakarta: LKis
- Majelis Tarjih dan Tajdid Pimpinan Pusat Muhammadiyah, Buku Tanya Jawab Agama Jilid 2, Cet-6, pp. 48-50.
- , Draft Materi Fikih Perempuan Musyawarah Nasional Tarjih ke-27 Tahun 2010 di Malang, Jawa Timur.
- , Keputusan Muktamar Tarjih XXII tentang Aborsi tahun 1989 dan Fatwa tentang 'Nifas bagi Ibu, Perawatan Jenazah, Pemberian Nama dan Akikah bagi Janin pasca Abortus' tahun 2010.
- Majelis Ulama Indonesia. 2005. 'Himpunan Fatwa MUI'.
- , t.t. 'Himpunan Keputusan dan Fatwa Majelis Ulama Indonesia'. Jakarta

- , Fatwa Musyawarah Nasional VI Majelis Ulama Indonesia Nomor 1/MUNAS VI/MUI/2000 tentang Aborsi (I), berlangsung pada tanggal 23-27 Rabi'ul Akhir 1421 H./25-29 Juli 2000 M. Lihat juga <http://mui.or.id/wp-content/uploads/files/fatwa/25.-Aborsi-1.pdf>, diakses 01 Desember 2019.
- , Pendapat Komisi Fatwa tentang Hukum Pelarangan Khitan terhadap Perempuan, ditetapkan di Jakarta dalam rapat tanggal 9 Desember 2006/18 Dzulqo'dah 1427 H, tanggal 3 Mei 2008, dan tanggal 7 Mei 2008, lihat <http://mui.or.id/wp-content/uploads/files/fatwa/29.-Hukum-Pelarangan-Khitan-Terhadap-Perempuan.pdf>, diakses 01 Desember 2019.
- , Fatwa Nomor 4 Tahun 2005 tentang Aborsi (II), ditetapkan di Jakarta, pada 10 Rabi'ul Akhir 1426 H/19 Mei 2005 dan 12 Rabi'ul Akhir 1426 H/21 Mei 2005.
- Mernissi, Fatimah. 1997. 'Beyond The Veil, Male-Female Dynamics in Modern Muslim Society', (tran). Surabaya: Alifkr, hal. 288-289.
- Mohamad, Kartono. (ed). 1998. 'Kontradiksi dalam Kesehatan Reproduksi'. Jakarta: Pustaka Sinar Harapan dan Ford Foundation.
- Muhammad, Husein. 2001. 'Fikih Perempuan'. Yogyakarta: LKiS dan Ford Foundation. Cet- 1, pp. 164-166.
- Musyarofah, Ristiani. 2003. 'Khitan Perempuan antara Tradisi dan Ajaran Agama'. Yogyakarta: PSKK UGM dan Ford Foundation.
- Muthmainnah, Yulianti. 2019. 'Aisyiyah dan Ijtihad Berkemajuan untuk Hak-Hak Perempuan' dalam *Jurnal Maarif Vol. 14 No. 2*. Jakarta: Maarif Institute.
- , 2018. 'Menjempit Fatwa yang Berkeadilan untuk Perempuan; Putusan Majelis Tarjih Muhammadiyah tentang Khitan Perempuan', dalam Fahmi Syahirul dan Syafiq asyim (editor), *Moderasi Fatwa; Diskursus, Teori, dan Praktik*. Jakarta: ICIP.
- , 'Human Rights in Indonesian Foreign Policy, Study Case of LGBT', Thesis at Paramadina University, February, 2015.
- , 2014. 'Membincangkan Perempuan, Aborsi dan Agama'. Suarakita.org, 9 October.
- , 2011. 'Larangan Khitan Perempuan', Kompas, 29 Juli.
- , Mumtazah, Afwah. 2004. 'Menimbang Penghentian Kehamilan, Perspektif Islam dan Hukum Positif'. Edisi 2/21. Jakarta: Rahima.
- , 2005. 'Eksistensi Hak-hak Kesehatan Reproduksi Perempuan: antara Hukum Islam dan Hukum Positif', Thesis at State Islamic University Syarif Hidayatullah Jakarta, February, 2005.
- Muzakkir, Muhammad Rofiq. *Meninjau Ulang Khitan Perempuan*, dalam 'Problematika Fikih Perempuan', (Yogyakarta: Suara Muhammadiyah, 2017), cet-2, pp 103-127.
- Nahdlatul Ulama, 2019. 'Khitan Perempuan' dalam *Solusi Problematika Aktual Hukum Islam Keputusan Muktamar, Munas, dan Kombes Nahdlatul Ulama Tahun 1926-2015M'*, Keputusan Komisi Bahtsul Masail ad-Diniyyah al-Maudhu'iyah Muktamar ke-32 Nahdlatul Ulama di Asrama Haji Sudiang Makassar, 06-13 Rabiul Akhir 1431 H/22-29 Maret 2010. Surabaya: Khalista dan Lembaga Ta'lif Wan Nasyr Pengurus Besar Nahdlatul Ulama. Cet-2, pp 1050-1064.
- , Fatwa Aborsi, Musyawarah Nasional Alim Ulama dan Konferensi Besar Nahdlatul Ulama di kantor PBNU Jakarta, 1-2 November 2014.
- Peraturan Pemerintah Nomor 61 Tahun 2014 tentang Kesehatan Reproduksi.
- Peraturan Menteri Kesehatan Nomor 1636/Menkes/Per/XII/2010 tentang Sunat Perempuan.

- Peraturan Menteri Kesehatan Nomor 6 Tahun 2014 tentang Pencabutan Permenkes Nomor 1636.
- Pimpinan Pusat Aisyiyah. 2017 Tuntunan Menuju Keluarga Sakinah. Yogyakarta: Suara Muhammadiyah. Cet-2. pp. 103-107.
- Sumarni, dkk. 2005. 'Sunat Perempuan di Bawah Bayang-bayang Tradisi'. Yogyakarta: PSKK UGM dan Ford Foundation.
- Surat Edaran Nomor: HK 00.07.1.3.1047a tentang Larangan Medikalisasi Sunat Perempuan bagi Petugas Kesehatan.
- Suryadilaga, M. Alfatih. 2004. 'Khitan Perempuan dalam Perspektif Hadist' dalam Sodik. Mochamad. (ed). *Telaah Ulang Wacana Seksualitas*. Yogyakarta: PSW IAIN Sunan Kalijaga, Depag, dan McGill-IISEP-CIDA. Cet-1, pp. 25, 36-37.
- Syarifuddin, Amir. 2001. 'Ushul Fiqh' Jilid 2. Jakarta: Logos Wacana Ilmu, pp. 297.
- Tempo.co, Menteri Agama Bekukan Draft Kompilasi Hukum Islam, Selasa/26 Oktober 2014, link <https://nasional.tempo.co/read/49923/menteri-agama-bekukan-draft-kompilasi-hukum-islam>.
- Tim Fatwa Majelis Tarjih dan Tajdid, "Hukum Oral Sex dan Onani dengan Tangan Istri", 10 Muharram 1437 H/23 Oktober 2015, <http://www.fatwatarijih.com/2016/02/hukum-oral-sex-dan-onani-dengan-tangan.html>, diakses 6 September 2019.
- Tim Bahsul Masail, Ini Keutamaan Istri yang Minta Duluan, <https://islam.nu.or.id/post/read/103883/ini-keutamaan-istri-yang-minta-duluan>, diakses 10 September 2019.
- , Hukum Oral Seks di Bagian Kewanitaan, [www.islam.nu.or.id](https://islam.nu.or.id/post/read/67870/hukum-oral-seks-di-bagian-kewanitaan), Rabu 4 Mei 2016, <https://islam.nu.or.id/post/read/67870/hukum-oral-seks-di-bagian-kewanitaan>.
- , Hasil Keputusan Komisi Bahtsul Masail Diniyah Musyawarah Nasional Alim Ulama NU 2014, <https://islam.nu.or.id/post/read/55645/hukum-aborsi-dalam-islam>.
- Uddin, Jurnal. At all. 2007. Reinterpretasi Hukum Islam tentang Aborsi. Jakarta: Universitas Yarsi. Cet-2, pp.167.
- Undang-undang Nomor 1 Tahun 1974 tentang Perkawinan.
- Undang-undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga (PKdRT).
- Undang-undang Nomor 36 Tahun 2009 tentang Kesehatan.
- Utomo B. dkk. 2001. 'Insiden dan Aspek Sosial-Psikologis dari Aborsi di Indonesia: Survei Komunitas di 10 Kota dan 6 Kabupaten, Tahun 2000' (Insidence and Social- Psychological Aspects of Abortion in Indonesia: A Community-Base Syrvey in 10 Major Cities ad 6 Districts, Year 2000). Jakarta: Pusat Penelitian Indonesia Universitas Indonesia.
- Wadud, Amina. 2001. 'Qur'an and Women: Rereading The Sacred Text From a Women's Perspective', (tran). Jakarta: Serambi Ilmu Semesta.
- Wahid, Marzuki. 2014. 'Fiqh Islam, Kompilasi Hukum Islam dan Counter Legal Draft Kompilasi Hukum Islam dalam Bingkai Politik Hukum Indonesia'. Cirebon: ISIF dan Marja. Cet-1, pp.187-195.

ⁱ *Ijtihad* is to exert the ability and earnest effort to produce legal conclusions from propositions or sources of law related to human behavior.

ⁱⁱ *Fikih* is the understanding of the law of Allah that comes from the Qur'an and the hadith of the Prophet Muhammad through the method of *ijtihad*.

ⁱⁱⁱ *Maqasid syari'ah* are the goals of universal Islamic law.

^{iv} Statement by Juan E. Mendez, Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment Female Genital Mutilation: Progress-Realities-Challenges. Side Event sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women-Geneva, 1 June 2011.

^v Article 4 verse (1) of Muhammadiyah's Basic Constitution of Association 2005.

^{vi} As-Sunnah is every act done by the Prophet Muhammad saw. as-sunnah there are three namely sunnah qouliyah that is every word of the Prophet or also known as al-Hadist, sunnah takririyah that is the silence of the Prophet on something done by the companions and the Prophet did not blame it so it can be used as a source of law / determination, and sunnah fiqiyah or every physical act performed by the Prophet.

^{vii} The Assembly was established based on the decision of the 16th Muhammadiyah Congress. Before it was named the Tarjih and Tajdid Councils, at the beginning it was named the Tasyri Council. See <http://tarjih.muhammadiyah.or.id/content-3-sdet-sejarah.html>, accessed 27 August 2019.

^{viii} Chapter IV Manhaj of Islamic Thought, Decision of Munas Tarjih XXV about Manhaj Tarjih and Development of Islamic Thought in 2000, p. 11.

^{ix} Contained in Article 4 paragraph (1) Chapter II number (1) in the Decision of Tarjih in Jakarta in 2000, that Muhammadiyah is an Islamic movement, da'wah amar ma'ruf nahi munkar and tajdid, sourced from the Qur'an and as-Sunnah al-Maqbulah

^x Syamsul Anwar is the Head of Tarjih and Tajdid Assembly of the Center Leaders of Muhammadiyah

^{xi} *Dhaif* it means weak. Weak hadith means the weak words of the Prophet Muhammad SAW, can not be used as a legal reference.

^{xii} Chapter IV and Chapter V, Munas Tarjih XXV Decision on Manhaj Tarjih and the Development of Islamic Thought in 2000, p. 16-23

^{xiii} The 1976 Tarjih Council Decision in the Adabul Mar'ah fi Islam has allowed women to become leaders in the public sphere in any position, including judges of the Religious Courts. In addition, Siti Ruhaini Dzuhayatin's research in the Gender Regime in Muhammadiyah noted that the Decision of the Tarjih Assembly and the Muhammadiyah Tajdid which was pro on contemporary women's issues was influenced by the process of idealizing the gender regime in the Muhammadiyah body formally reflected in official decisions in conferences, institutional products, as well as the internal mechanisms of the organization that first began in 1927 when the Tarjih Council was formed in Cirebon. The discussion of the issue of women in the periodization which is still cultural occurred between 1912-1930. Then, between 1930-1940 entered the Shari'ah standardization period. During the period 1940-1950 gender issues stagnated, there was only the recognition of women and men as members of the Muhammadiyah Association and the clash of ideologies of the New Order occurred in 1950-1960. Since 1960 the issue of women began to be echoed again. And since 1999 until now reached a period of progression and enlightenment on women's issues that are tailored to the needs of the times. Dzuhayatin, Siti Ruhaini. 2015, *Rezim Gender di Muhammadiyah (Gender Regime in Muhammadiyah)*. Yogyakarta: Mizan, p.166-194.

^{xiv} For example the opinion of Anwar Abbas, one of 13 Muhammadiyah Central Leaders who believes that LGBT is haram and is a grave sin, so the perpetrators must be treated so that it does not become a disgrace to the community. While Muhammadiyah — the Tarjih and Tajdid assemblies — had not yet issued such a decision. The policy issued is that LGBT may not be tortured for their sexual orientation. See Yulianti Muthmainnah's thesis, "Human Rights in Indonesian Foreign Policy, Study Case of LGBT", Thesis at Paramadina University, February, 2015.

^{xv} Marzuki Wahid, Mudir Ma'had Aly Kebun Jambu and lecturer of IAIN Sheikh Nurjati Cirebon, interview, 4 March 2020

^{xvi} Wawan Gunawan Abdul Wahid, Member of the Tarjih and Tajdid Assembly of Muhammadiyah Central Leadership. Interview during the question and answer session, DKI Jakarta Tarjih Cadre High Level Training, 9-10 November 2019.

^{xvii} Interview with Maria Ulfa Anhor, 11 April 2020.

^{xviii} Mahbub Maafi, one of the speakers from NU, who paneled with speakers from Muhammadiyah and Persis, discussed the fatwa methodology at Muhammadiyah, NU, and Persis in the Muhammadiyah High Level Tarjih Ulama Cadre Training, 27-28 December 2017 at Muhammadiyah Boarding School Ki Bagus Hadikusumo, Jampang, Bogor. Muhibb responded that NU agreed to female circumcision.

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